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Ontario. Royal Commission enquiry into labour
disputes.

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ROYAL COMMISSION
INQUIRY INTO LABOUR DISPUTES

5635

HEARINGS HELD AT
TORONTO, ONTARIO

VOL. NO.

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DATE

Jan. 24, 1967

Official Reporters

NETHERCUT & YOUNG LIMITED
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Nethercut & Young

Toronto, Ontario

IN THE MATTER OF The Public
Inquiries Act, R.S.O. 1960,
Ch. 323

- and -

IN THE MATTER OF an Inquiry
Into Labour Disputes

BEFORE: The Honourable Ivan
C. Rand, Commissioner,
at 123 Edward Street,
Toronto, Ontario, on
Tuesday, January 24,
1967.

E. MARSHALL POLLOCK

Counsel to the Commission

APPEARANCES:

United Electrical, Radio
and Machine Workers of
America (U.E.)

Mr. Ross Russell

Director of Organization

Mr. N. Ferguson

Research Department

Nethercut & Young, Official Reporters, 48 York Street,
Toronto 1, Ontario, per: F. J. Nethercut and R. J.
Young.



F.N. SS 1

2 ---On commencing at ten o'clock a.m.

3

4 MR. POLLOCK: The United Electrical,
5 Radio and Machine Workers of America (U.E.), Ross
6 Russell, Director of Organization.

7 Mr. Russell, I can tell you that
8 both the Commissioner and I have read your brief and
9 we do not wish to restrict in any way your presentation
10 of it. Perhaps because of its length we would prefer
11 if you would deal in summary with some of the matters
12 or if you feel that that would proscribe your
13 presentation you may proceed in any way you see fit.

14 MR. RUSSELL: Well, Mr. Commissioner
15 and Mr. Pollock, I will make a confession. I have been
16 so busy that I didn't make a summary, I didn't know
17 the procedure of this Commission.

18 THE COMMISSIONER: Just adopt your
19 own style.

20 MR. RUSSELL: I had assumed you would
21 want me to read it, but if you prefer not to ---

22 THE COMMISSIONER: I think the
23 actual reading may be unnecessary, but take a subject
24 matter which you deal with in two or three pages and
25 elaborate on it because no doubt you are familiar
26 with it.

27 MR. RUSSELL: Yes, I am familiar with
28 it.

29 THE COMMISSIONER: Any part you want
30 to read, why, do so.



1 MR. RUSSELL: Well, I think we are
2 here primarily, although not exclusively to deal with
3 this matter of injunctions in labour disputes. Our
4 submission, we believe, is a fairly strong one in this
5 regard in that as our brief points out an injunction is
6 to maintain a status quo as we understand it, but an
7 injunction in a labour dispute ---

8 THE COMMISSIONER: As you proceed we
9 will ask you to define what you mean by "status quo"
10 and that sort of thing. Don't let me interrupt you.

11 MR. POLLOCK: As a preliminary, Mr.
12 Russell, maybe it would be of assistance to us if you
13 would give us a general picture of the U.E. in Ontario
14 with respect to the number of members, the number of
15 locals. I assume that most of your work is done in
16 industrial circumstances, that you are not a
17 construction electrical unit or, if you are, we would
18 like to hear about it.

19 MR. RUSSELL: We are an industrial
20 union. We were a founding union back in the 1930's in
21 the United States of the C.I.O. in the electrical
22 industry and again in Canada in the old Canadian
23 Congress of Labour. As an industrial union in our
24 jurisdiction it included such giants in the industry
25 as Canadian General Electric, Canadian Westinghouse
26 and a host of other electrical firms which I am sure
27 you gentlemen are acquainted with, they are household
28 terms. Over the years for a variety of reasons that
29 unless the Commission wishes to go into I will not
30 mention, we have remained much the same. Certain



1 circumstances have changed. One is that we are no
2 longer an affiliate of the former Canadian Congress of
3 Labour or the present Canadian Labour Congress and,
4 secondly, some ten years ago approximately by agreement
5 with the officers first of our union in the United
6 States and then the executive board and then the
7 membership we are completely autonomous and independent.

8 MR. POLLOCK: That is the Canadian
9 portion?

10 MR. RUSSELL: The Canadian portion.
11 The union in Canada is elected, that is to say, the
12 executive board and officers are elected by Canadians
13 in Canada at an annual convention. They make all of
14 their own decisions and no decisions can be overruled
15 from the United States. In fact, we have only fraternal
16 relations with the United States.

17 THE COMMISSIONER: With what you might
18 call the parent organization?

19 MR. RUSSELL: The parent organization.
20 For example, we send an observer to their conventions
21 who gives the people a picture of Canada and they send
22 an observer to our annual conventions to give us a
23 picture of the situation in the United States.

24 THE COMMISSIONER: They have no
25 permanent international representative in Canada?

26 MR. RUSSELL: Oh, no, there are no
27 representatives from the United States in Canada.
28 We finance our own union. Of course, the money stays
29 in Canada. We do not send any there and they don't
30 send any here.



1 So that that gives you some idea of
2 the kind of union we are. We have about 25,000 members
3 in the Province of Ontario. There are some 15 or 16
4 Canadian General Electric plants embracing approximately
5 8,000 members. This is the largest single group and
6 the second largest single group is the Canadian
7 Westinghouse Company. The largest single unit is in
8 Hamilton with some 3,500 and there are a number of other
9 units adding up to in the neighbourhood of 5,000
10 members in the Canadian Westinghouse Company chain.

11 The next largest single unit is the
12 Northern Electric in Bramalea, Ontario with approximately
13 2,500 members in there and from there it spreads out
14 to such companies as Canada Wire, Square D., names
15 that are well known to you gentlemen, I am sure.
16 We have two types of locals. We have single locals,
17 that is to say, where a given plant or shop is set up
18 as a local and then we have what we call composite
19 locals where we might have as many as 15 different shops
20 in one local. This is in order in certain instances
21 to administer better.

22 THE COMMISSIONER: That would cover
23 what, some counties?

24 MR. RUSSELL: No, usually they are
25 quite close together. For example, in the west end of
26 Toronto we have our Local 512 which has approximately
27 15 shops in it, all in the general southern, western
28 area, and then we have one in the east end of Toronto.
29 We have one in Hamilton other than Westinghouse which
30 stands alone and we have a Local 520 which, I believe,



1 has 11 shops in it, all more or less within the City of
2 Hamilton and in Welland again another similar situation,
3 and so on.

4 THE COMMISSIONER: When you are
5 certified in relation to such a group is it applicable
6 to all of these industries?

7 MR. RUSSELL: We have made it a
8 practice, sir, since the Labour Relations Act came
9 into being, to apply for certification in the name of
10 the union, what we used to call the international
11 union and what we now call the national union; in other
12 words, we simply apply as the United Electrical and
13 Machine Workers of America. Actually the employees in
14 a given shop are pretty well given the choice. If
15 they say they want a separate local we give them a
16 separate local. We explain the advantages of both
17 if there happens to be a composite local there and in
18 the main they make the decision as to which they think
19 is in their best interests. Sometimes they go into a
20 composite local and some years later say --- either
21 the plant grows or for one reason or another they feel
22 that they want an individual local and that is okay
23 with us, whatever they want.

24 THE COMMISSIONER: Is that individual
25 local subject to certification?

26 MR. RUSSELL: Oh, no, it is only
27 the plants that are subject to certification, the
28 factories.

29 THE COMMISSIONER: Well, in relation
30 to a plant?



1 MR. RUSSELL: No, sir. May I give
2 you an example? I think we organized the Square D
3 Company in about 1945 and 1946 and were certified
4 and had a collective agreement with that company for
5 perhaps 15 years or more. The Square D employees were
6 part of a composite local, 512 in the west end of
7 Toronto. About three years ago the plant had grown
8 some and for other reasons as well the employees
9 requested of the national executive board that they
10 have a separate local. So we said, "That is all right",
11 and we assigned them then a local number. When their
12 contract time came around to negotiate by mutual
13 agreement with the company they simply changed the
14 number from Local 512 to another number; it made no
15 difference to the company. Everything was the same
16 except the number of the local.

17 That is our setup, then. Now, we
18 have, as I said, a convention always held in Toronto
19 once a year. It used to be held in the fall and now
20 it is held in the spring. At that convention then
21 each local sends delegates and the delegates are
22 representative of the size of the local. At that
23 convention the executive board and the officers for
24 the coming year are elected by the delegates present
25 there. They may be instructed by their membership
26 before they come or they may not be, that is up to the
27 locals how they wish their delegates to handle that
28 situation. But once a year there are four officers,
29 the president, the vice-president, secretary-treasurer
30 and director of organization elected and ten additional



1 executive board members from among the presidents of
2 locals. Then, in the constitution it is provided for,
3 and it has been our practice that we may, but we almost
4 always do, hold a semi-annual conference. Now, the
5 convention sets out the policy of the union for the
6 coming year through resolutions. Resolutions are
7 submitted to this convention by the local unions. They
8 are debated and in one form or another they are finally
9 passed. These resolutions form the policy of the
10 union on such matters as war, peace, contract
11 questions ---- all matters.

12 The officers and executive board
13 then are obliged to carry this policy to life. At
14 about the six-month point or thereabouts we hold what
15 we call a council meeting. They are to take stock, if
16 you will. There are no resolutions. There is
17 usually a statement bringing up to date what has been
18 done about the various matters that were dealt with at
19 the convention and usually there are some new current
20 problems which are discussed, debated and perhaps
21 some variation in policy may come about or merely the
22 officers and executive board giving the membership
23 through the delegates an opportunity to know what they
24 have done, to criticize what they have done and
25 generally to bring them up to date on the situation.

26 Our staff are all Canadian men,
27 mostly from the shops. They are appointed by the
28 officers of the union, they are national representatives
29 and they do both organizing and what we call servicing.
30 We also have business agents. We have two types of



1 staff member, you might say, national representatives
2 who are appointed by the officers and who do both types
3 of work and have to be versatile. They have to know
4 how to negotiate, present arbitration cases, et cetera,
5 assess the local executive boards and local officers in
6 preparing arbitration cases, top-stage grievances, et
7 cetera and organize the unorganized.

8 Then there are in some of the locals
9 business agents. These are elected on an annual basis
10 from among the members of that given local and they
11 administer. That is their job basically, administering
12 the collective agreement in that particular local. In
13 one or two situations --- two situations, to be
14 precise, there are also full-time presidents which for
15 all practical purposes do the exact same work as the
16 business agents. In Hamilton where it is a very
17 large local they have both a full-time president and a
18 business agent and in Northern Electric they have a
19 full-time president.

Y/SS 20 Subject to any questions that the
21 Commission may wish to ask, that is a picture of the
22 union. Our union has never been backward about coming
23 forward and presenting the policy positions of the
24 union. We have over the years --- I did not come
25 equipped for this --- but I can tell you from my
26 memory, we have as far back as the time that Mr.
27 Abbott was a member of the federal government and
28 prepared the Abbott Plan, and that takes us back to
29 about 1947 or 1948, we had at that time prepared an
30 elaborate brief which we presented to the federal



1 government and we said it was very bad, that it would
2 lead to American ownership and domination of our
3 industries, and we put forward an alternate proposal
4 because at that time we thought, and I think so, with
5 respect, correctly, that it has led to what I heard on
6 the radio this morning where the Prime Minister has
7 appointed a Commission to investigate American ownership
8 in Canadian industry, which is creating some pretty
9 hefty problems. I merely illustrate that as one of the
10 things far back where our union fortunately, and I think
11 because of the democratic procedures of the union, took
12 what we consider now a correct position.

13 The second point that I might
14 mention which I am sure the Commission will be aware
15 of is that we prepared an elaborate brief ---- I cannot
16 recall the year on this, but it was a long time before
17 the St. Lawrence Seaway --- we prepared a brief at that
18 time proposing that it be an all-Canadian project, to
19 bring deep sea ships through to the Great Lakes. This
20 was, I believe, about 1949.

21 More recently we have prepared a
22 brief --- and when I say that we have prepared briefs
23 and presented them, I might say that we are that kind
24 of a union that in every instance, as here today,
25 there are representatives from many of the locals, many
26 of the shops in our union, and these people are deeply
27 interested in these questions, whether it be the question
28 of the injunctions, the Abbott Plan at that time, our
29 presentation to the Select Committee on Labour Relations
30 which was set up by the provincial government some ten



1 years ago, where we had a large delegation of our
2 membership and a large brief, I might say. The point I
3 am making here, sir, is that we have always as a union
4 taken a deep interest in Canada, what our union
5 considered was best for the working people of Canada
6 and we have been outspoken as clearly as we knew how on
7 matters such as what we presented to the Select
8 Committee on Labour Relations, and on other matters
9 which we considered affected our membership and working
10 people of Canada such as the Columbia River Project
11 which we were opposed to in its present form, and other
12 matters that I have mentioned. That is the kind of a
13 union we are.

14 Now, if there is anything more about
15 the union that the Commission would like to know, I
16 would be glad to go into it.

17 Now, we come to some of the matters
18 which we are here to take up with you, sir. We are
19 told that the working man has a right to join the
20 union of his choice and to participate in its lawful
21 activities, and we spread the gospel far and wide in
22 this regard. This is interpreted to mean, by the average
23 employee or worker, exactly what the words say.

24 THE COMMISSIONER: Does that imply
25 that a man has a right to choose no union?

26 MR. RUSSELL: Oh, by all means. I
27 think the difference here is that in the early days ---
28 and this is the difference that in my lifetime I am
29 acquainted with and which I explain to new workers and
30 young workers ---- that in the early days we would



1 organize secretly, almost as if we were a subversive
2 organization ---- underground, so to speak, because if
3 we did not we would never get organized. When we
4 successfully organized a majority, and it had to be a
5 pretty big majority in a plant, then we had to find
6 three, four or five people who had enough courage to
7 go to the employer and say, "We are organized. We wish
8 to negotiate". More often than not the employer would
9 say, "You are fired". At that point we had to know, or
10 try to know, that when those people walked out on the
11 street the other people would walk out with them. If
12 the other people walked out with them, there was some
13 chance that the employer would change his mind and he
14 would sit down and bargain collectively. If the other
15 people did not walk out with them, that was the end of
16 that for a while, and those five people were out of a job
17 with that employer.

18 We have interpreted this to mean that
19 a person is free to join a union, and this aspect of
20 participating in its lawful activities is very, very
21 confusing to many workers. For example, when workers
22 go out on strike after having gone through the procedure
23 that has been explained to them they must go through
24 under the Act, under the regulation --- conciliation,
25 et cetera --- and like everything else, terms get
26 shortened down, and so they are now out on what they
27 call a legal strike. Unless a worker has been out on
28 one of those before --- and most have not --- he figures
29 that it is just what the words say: He is out on a
30 legal strike, and there are some mighty peculiar ideas,



1 or they might appear peculiar to you or even to some of
2 us who have participated in strikes, that because he is
3 out on a legal strike no one should be allowed to go
4 through the picket line; certainly, that he has the
5 right to talk to his workmate if his workmate comes
6 there and has ideas other than joining the picket line.
7 However, he is very often startled to find that before
8 he even knows what has happened, really, before he has
9 settled down into this whole new world to him, being
10 out on strike, and quite frankly he has many illusions,
11 about what a strike means; to him the strike means if
12 the employer has a lot of work, and he knows this from
13 his work in the plant, and they are going to withhold
14 their labour because the employer has not given him in
15 his opinion sufficient to live in decency, et cetera,
16 and almost before he realizes what happens very often he
17 finds an injunction which, of course, he knows nothing
18 about in the main --- its technical side, at least.
19 He has read about it and heard about and he finds he
20 is slapped with an injunction and that he can't even
21 go near the picket line.

22 Now, with respect, sir, I say to you
23 that the worker looks at this thing and he says, "The
24 world is loaded against me. What chance have I got?".
25 Our submission makes the point that an employee, a
26 worker, should have the right to be out there the same
27 as he has the right to be inside the plant, to be out-
28 side the plant and participate on a picket line to show
29 that he, John Smith, is a participant in this strike,
30 just as he, John Smith, was working at the lathe



1 yesterday. Now he is out there and is a participant
2 in the strike, to advertise that fact.

3 The sad part of it is that he
4 considers it, and rightly so in my view, that it is
5 not at that point a struggle, if you will, which he
6 was prepared to enter --- a sacrifice, if you will ---
7 that he was prepared to enter between himself and the
8 employer, but he now finds a third party, an outside
9 party that he never expected, unless he has been in
10 other strikes or been carefully forewarned, but I would
11 say nine out of ten strikers who go on strike for the
12 first time discover to their amazement the referee,
13 so to speak, in this fight is clipping him from behind
14 with a few rabbit punches, and at this point he becomes
15 somewhat demoralized, to put it mildly, when he finds
16 the third man in the ring is not only not impartial, but
17 is actually helping the other side.

18 The state to which we all belong
19 comes into the fight on the side of the employer.

20 THE COMMISSIONER: Well, now, I would
21 prefer to have a statement of facts. That is a
22 conclusion from the facts. You have to start with this,
23 Mr. Russell, and you know it as well as anybody, that
24 by our conceptions that have been seemingly accepted by
25 human beings for several thousand years, that
26 there is such a thing as property.

27 MR. RUSSELL: Property?

28 THE COMMISSIONER: Yes. Now, if
29 there is one thing that seems to fascinate human beings
30 it is the possession of property, whether they are



1 members of the local union or members of the elite of
2 money. You start with that. This man is in a citadel
3 almost, which is recognized by everybody, and if you
4 owned the property you would have much the same feeling
5 unless you were subject to an inner discipline that does
6 not seem to be too prevalent today in the societies of
7 the West. So, the striker, the young man who has never
8 been on a strike before, he knows what it is to own an
9 automobile and he would resent very strongly my
10 assumption that I had something to do with it. He must
11 realize that this so-called plant is recognized as the
12 property of somebody else. Now, I am not concerned
FN/SS 13 with anything at all about the validity of that
14 property; I am simply saying that that is the accepted
15 assumption. How can you say, therefore, that he looks
16 upon his ability to act there as if he were the owner
17 of the property or as if he had some property interest.
18 We have to have law, we have accepted those things.
19 If you want to qualify that so that your property is
20 subject to my pleasure to a certain extent, then it is
21 a new advocacy that we want.

22 MR. RUSSELL: Let me put it this way:
23 We have John Smith whom I referred to. He, before he
24 went on strike in terms of property may have worked on
25 a machine the value of which was anything from \$50,000
26 to half a million dollars which did not belong to him
27 and he understood that very well and he cared for that
28 machine in the best way he knew how. He looked after
29 it, he made sure that it was in good working order and
30 did its job. He was a responsible enough employee that



1 here was a very expensive machine, so to speak,
2 assigned to his care and he looked after it to the
3 best of his ability. When he stepped out of that
4 plant and was now outside the gate I don't think he
5 had any less interest in the property even though it
6 belongs to the employer.

7 THE COMMISSIONER: I would agree with
8 you that he ought to have that attitude.

9 MR. RUSSELL: There is no question
10 in my mind, sir. As a matter of fact, he probably
11 left that machine in the best possible state because
12 he knew that sooner or later he was going to come back
13 and work at it. At least that was his hope, he assumed
14 that. As I say, if he had never been on strike before
15 he assumed that.

16 What I am talking about in terms of
17 property or what I think perhaps you are talking about
18 comes under a different sort of heading, sir. When
19 he stepped outside and went out on this legal strike
20 he assumed that he was still the same John Smith that
21 he was the day before, that is to say, that when he
22 was working in the plant all the normal laws applied
23 to him. If his workmate said that he stole something
24 from him or the plant manager said that he stole
25 some tools he was innocent until proven guilty, he had
26 a right to a proper trial and so on ---- the normal
27 procedures of law. This was the John Smith who worked
28 at the machine. He had all the protection that you
29 and I and everybody else has --- normal protection of
30 the law. But when he stepped outside and was now a



1 striker those protections just vanished.

2
3 THE COMMISSIONER: Now, that is an
4 extreme statement. I would not accept that for one
5 instant. You know it is not a proper statement because
6 he is protected against assault from me or you or
7 anybody else. He has the right to stay on that sidewalk
8 as a man using the sidewalk, but all I am suggesting,
9 Mr. Russell, I think this has been drawn up very
10 acutely and I want to respect your views, but may I
11 suggest this, that I hope I have done a little bit of
12 thinking in my life myself and I am never impressed
13 by extreme statements which really don't accord with
14 the facts. Now, he has all of those same protections
15 while he is on the sidewalk that he has inside except
16 this: He was entitled while he remained inside the
17 plant to assume a certain control over that machine.
18 As you say, he cared for it, he worked it, he operated
19 it, he was careful of it, it represented the means by
20 which he would be in the ultimate sense entitled to
21 something which we call return or compensation or that
22 sort of thing. When he went out, though, he abandoned
23 to a certain degree that position: He doesn't now
24 expect to be paid for doing nothing. In the plant he
25 was paid for working. When he is outside he says, "No,
26 I am not entitled to money, but I am entitled to act in
27 relation to that property just as somebody else who
28 was not an employee who was looking on me inside the
29 plant and wished he could have that same position but
30 was held by the law from interfering with me".

MR. RUSSELL: I know, Mr. Commissioner,



1 that you feel --- and I don't blame you for feeling
2 this way --- that I am exaggerating, but I am
3 suggesting to you, sir, in my own practical experience
4 that what I have said is not an exaggeration, it was not
5 designed to dramatize it: It is a fact of life.

6 THE COMMISSIONER: If you say that
7 he feels that when he is on the sidewalk I quite accept
8 that, but when you say that that is the reality, I must
9 ask you to demonstrate that by more considerations than
10 you have advanced up to the moment.

11 MR. RUSSELL: I will try, sir. He
12 doesn't feel that. He feels when he comes out, the
13 young man who has never been on a strike before, he
14 feels when he comes out having never participated in a
15 strike that he has all the normal protections that he
16 would have if he were not on a strike. This is his
17 big surprise. The big surprise that he finds is that
18 an injunction --- and I will come to how the injunction
19 came about --- some sort of a skirmish may have
20 happened on the picket line or no skirmish at all, just
21 the fact that there were, like I say, 1,000 people in
22 this plant and 1,000 people turned up the first morning
23 of the strike which we submit is their right to do ---

24 THE COMMISSIONER: Well, it depends
25 on the men, you know that. Suppose they simply say,
26 "We close these gates, we occupy the sidewalk, nobody
27 is going to go in or out". Do you say that is a
28 legitimate use of a picket line?

29 MR. RUSSELL: I don't think that that
30 is what I am referring to, sir. I am merely referring



1 to the thousand people who yesterday walked through
2 those gates and went to their respective machines and
3 who today come out on a legal strike, walk around and
4 try to influence anybody and everybody who may have
5 something to do with the plant that they have a
6 legitimate strike on here, legitimate grievances and
7 so on.

8 You, sir, are not naive and neither
9 am I and it is very easy to send a provocateur into
10 1,000 people, create a little incident, and I have
11 seen it and this is what I was referring to before,
12 create an incident. Of course, there will be a lot of
13 police there --- create an incident and within almost
14 hours, as our brief suggests because the affidavits
15 have already been drawn up more times than not even
16 before the incident was created, affidavits that say,
17 "I verily do believe and I am told and so and so has
18 told so and so", and bingo ---- an injunction !
19 Now, that particular employee may have only have spent
20 an hour on the picket line, but the next morning he is
21 told, "You can't go on it anymore, we are limited to
22 three men". He might have been quite far away from this
23 little skirmish that may have only lasted seconds, he
24 didn't even know about it or heard about it through
25 somebody else. All he knows is the next morning he
26 is barred. Who barred him? The law.

27 THE COMMISSIONER: That is the same
28 law that prevents me from entering your house without
29 your permission, that is all. Would you want to give
30 that up?



1 MR. RUSSELL: I think that is a
2 different law, sir. I said before and I say again that
3 we all have certain rights under our normal procedures,
4 the law that I can't enter your house improperly or you
5 mine, that I can't steal from you, but I am innocent
6 until I am proven guilty.

7 THE COMMISSIONER: The important fact
8 is not the matter of proof but the fact itself. The
9 question of proof is entirely separate from that. I
10 am concerned with the facts, not the mode of proving
11 them.

12 MR. RUSSELL: Well, may we look at the
13 facts, sir? There was a skirmish, some hothead hit
14 somebody over the head.

15 THE COMMISSIONER: But don't you think
16 that 1,000 people generate hotheads?

17 MR. RUSSELL: No, not at all.

18 THE COMMISSIONER: That was agreed to
19 by, I think, Mr. Archer and he said, of course, the
20 object of coming together that way is to generate
21 morale, to generate heat and to demonstrate that in
22 effect as somebody has expressed it, "We mean business".

23 MR. RUSSELL: If Mr. Archer agreed
24 with you, then Mr. Archer and I have a difference.
25 To me there is a principle here and I don't think that
26 you can take the position that 1,000 people coming
27 together may create hotheads as the reason why that
28 same John Smith that I spoke about who is working at a
29 \$100,000 or \$500,000 machine has no longer the right
30 to stand out and proclaim he is on strike. I don't



1 think it is powerful enough ---

2 THE COMMISSIONER: I don't suggest
3 that for a moment. You know that.

4 MR. RUSSELL: But that is the result
5 of it.

6 THE COMMISSIONER: Let me suggest
7 this and then I won't interfere.

8 MR. RUSSELL: Oh, it is all right, I
9 appreciate it.

10 THE COMMISSIONER: I must say I have
11 a great deal of sympathetic understanding of the man
12 who looks --- supposing he has been sitting in a chair
13 and he looks through the window and he sees that chair.
14 When he is sitting in it there is another man on the
15 street who hasn't got that privilege. He is looking
16 at that chair too and wishing, I have no doubt,"I
17 would like to sit in that chair", and when he sees it
18 empty what is one of the difficulties of a strike? It
19 is because that man on the sidewalk who would like to
20 sit in that chair is not willing to go in and sit on
21 it.

22 MR. RUSSELL: I hope, sir, you will
23 take what I am going to say in the right spirit, but on
24 three occasions now you have said something similar.
25 I said before I don't think you are naive any more
26 than I am, but having said pretty much the same thing
27 three times, namely, that some employee wants a job
28 or the job I am beginning to wonder because history is
29 replete with examples of the employer sending in
30 provocateurs, paid people to do a job.



1 THE COMMISSIONER: I have not the
2 slightest doubt that you are stating the facts. We
3 need not press that. I know something about the past.

4 MR. RUSSELL: I am sure you do, sir.

5 THE COMMISSIONER: Don't think for a
6 moment that among labouring men there is always sweet
7 reasonableness towards each other. Each man is
8 concerned with living on this planet and with protecting
9 people who are very close to him and all I am doing is
10 saying that although this man does look that way he
11 knows that other people are looking in much a similar
12 way or they may be. I don't say they are, they may be.

13 MR. RUSSELL: Well, may I say, sir,
14 as a very practical example of my own experience --- now
15 I am not taking it out of a book: I have been 25 years
16 with this union and in 25 years I have participated
17 in and known of a fair number of strikes that we have
18 had. We have not had, I don't think, any more strikes
19 or any less strikes than the average industrial union,
20 but in every single instance, every single instance
21 that we have run into the ground or been able to run
22 into the ground and prove where there has been
23 provocation on that picket line that provocation has
24 been manufactured in one form or another. It may have
25 been manufactured by the employer simply communicating
26 with some former employees and agreeing to pay them not
27 what the union was asking, why they are on strike, but
28 far more than that in order to get them to come in to
29 create this situation.

30 THE COMMISSIONER: That just confirms



1 what I am suggesting, that there is not always these
2 relations that you conceive and which I think are
3 very proper between man and man. That is not recognized,
4 you know, by the complete generality of human beings.

5 MR. RUSSELL: No, but I am saying this,
6 that the employer has the right to do all these things ---

7 THE COMMISSIONER: I don't say he has
8 the right to do that at all.

9 MR. RUSSELL: --- provoke, but he
10 does.

11 THE COMMISSIONER: I daresay he does.
12 We have a great many criminals and many of them are
13 guilty of the same thing.

14 MR. RUSSELL: This is precisely the
15 point and then I am going to leave it. We have
16 criminal law. If the employer does provoke, and we
17 maintain he does in every single instance, and he is
18 successful --- now, mind you, we warn our people, we
19 try to tell them, "You are going to retain discipline",
20 and so on, but certain individuals are more hotheaded
21 than others. So somebody hits somebody. We have the
22 law, as you say, and there are plenty of policemen
23 there to arrest that man, charge him, he will have his
24 day in court, they will bring their witnesses, they
25 will bring our witnesses and surely that is enough.

RY/SS 26 THE COMMISSIONER: Why do you think
27 that does not take place? The policemen are like the
28 rest of us. They have their responsibilities. They
29 are friends with the strikers --- and it is generally
30



1 in a small community. The strikers and the policemen
2 are part of the general society. They draw back from
3 that sort of thing.

4 MR. RUSSELL: With great respect, sir,
5 you are wrong.

6 THE COMMISSIONER: I don't say that
7 always takes place, but I say in some instances it does
8 take place.

9 MR. RUSSELL: Our experience again
10 is that this takes place probably the first day of the
11 strike and one or two people may or may not be arrested
12 and charged, but it never has an opportunity to take
13 place after that if an injunction is granted, because
14 at that point the policemen are keeping the people so
15 far away that there is no problem any more for the
16 employer. When you say, "Why doesn't it take place?",
17 I assume you meant the police arresting the individual.
18 They will and they do, but our problem is the injunction.

19 THE COMMISSIONER: How many instances
20 can you cite where policemen have arrested any man at
21 the beginning of a strike for either creating a
22 nuisance or interfering with people passing or
23 interfering with somebody else? On how many occasions
24 on his own initiative has he done that?

25 MR. RUSSELL: We have had lots of
26 them.

27 THE COMMISSIONER: I would like to
28 have evidence of it.

29 MR. RUSSELL: All right, sir. Just
30 going from my own memory we had the Lanark strike a few



1 years ago and there were at least a dozen --- and this
2 is in a small town, not Toronto ---

3 THE COMMISSIONER: I have in mind
4 small towns.

5 MR. RUSSELL: I would say at least
6 a dozen, a number of them women, who were arrested.

7 MR. POLLOCK: For what kind of
8 activity?

9 MR. RUSSELL: Well, some women tried
10 to approach other women. We had an injunction. They
11 tried to get hold of them either through an automobile
12 window or something like that. Some of them walked in
13 and they tried to reach them, but there were police
14 cordons --- in fact, some of them were arrested and
15 they never got anywhere near the people who were going
16 through the picket line, because all they tried to do
17 was get beyond the police cordon.

18 MR. POLLOCK: To do what?

19 MR. RUSSELL: To be able to reach
20 those people and try to convince them that what they
21 were doing was wrong.

22 MR. POLLOCK: How?

23 MR. RUSSELL: Any way they could. I
24 know you wanted that classic answer or you expected
25 the classic answer, "To talk to them", but this is not
26 so easy, because these people are coming in in sealed
27 cars. Now, you can't open the door and the windows are
28 up so the most you can do is knock on the window and
29 try and dissuade him to put it down so you can talk to
30 him.



1 THE COMMISSIONER: Do you think coming
2 from that far they would be persuaded there was a
3 strike?

4 MR. RUSSELL: Probably not, I don't
5 know. But basically it is the injunction that is at
6 fault.

7 THE COMMISSIONER: That may be, but
8 I would like to know now this: you can challenge the
9 facts that are presented to a judge on such an
10 application. Have you ever tried to show that those
11 statements that were made "I am informed and verily
12 believe that such and such a thing happened", have you
13 endeavoured ever to show that those things had not
14 happened?

15 MR. RUSSELL: Yes, I am glad you
16 asked me that, sir. Having had a little experience in
17 this regard, as you well know, the way it is done is
18 by affidavit, of course, and then you can examine on
19 the affidavit, and then you can put in your own counter
20 affidavit, and usually this is about two weeks, three
21 weeks.

22 THE COMMISSIONER: Oh, I agree.

23 MR. RUSSELL: So I tried when the
24 Lanark strike was on ---

25 THE COMMISSIONER: I am not familiar
26 with that.

27 MR. RUSSELL: We decided to take a
28 different path. There was first an ex parte injunction,
29 and then we came down ---- and I personally was there
30 with some of the strikers --- and it was in the Supreme



1 Court of Ontario. I said to the judge that we wanted
2 to submit oral evidence and we wanted oral evidence
3 submitted against us. With respect, sir, this threw
4 pandemonium into the court. The judge gave me a long
5 lecture on the fact that we should have a lawyer who
6 knew how to proceed on these matters, which was by
7 affidavit. He pointed out that there was no such thing
8 as a witness box in the courtroom, because these cases
9 were not done that way. However, we stuck to our guns
10 and argued strenuously. He adjourned. For whatever
11 reasons, he decided to move to another courtroom where
12 there were witness boxes, and we did have, so to speak,
13 our day in court, but it wasn't really.

14 THE COMMISSIONER: Why not?

15 MR. RUSSELL: Well, they were not
16 obliged to put in their evidence orally.

17 THE COMMISSIONER: No, but they had the
18 affidavits. I am assuming an injunction was issued on
19 the basis of what was alleged in the affidavits.

20 MR. RUSSELL: Now, the first problem
21 we faced was that we could not cross-examine an
22 affidavit.

23 THE COMMISSIONER: But you had your
24 own evidence which I think is much more effective than
25 a cross-examination.

26 MR. RUSSELL: I put our people into the
27 witness box, but with great respect, sir, the judge
28 took advantage of me. He did the examining in the main
29 of my witnesses. Oh, he permitted me a certain leeway,
30 but he kept telling me that I could not go into that and



1 I couldn't go into the other thing, and finally took
2 over the examination and said that this is what he was in-
3 terested in and asked the people the questions he wanted
4 to ask them, and that was that. It was not like a real
5 trial. I have been to court. In the first place, the
6 people who were seeking the injunction should have been
7 there in the witness box subject to cross-examination.

8 THE COMMISSIONER: I respect that as
9 a legitimate submission on your part. I think I would
10 be inclined to agree that generally speaking that is so,
11 so you need not argue that.

12 MR. RUSSELL: In the affidavits,
13 the men who made out the affidavits personally had no
14 experience, that is to say, they did not say, "I saw
15 this happen" in any instance. In each instance the
16 affidavit referred to other people who told him, and
17 so on. Yet we had no opportunity to handle it in that
18 way. Now, this is what I meant when I said ordinary,
19 natural, so-called British justice that you are
20 innocent until you are proven guilty ---- I had with me
21 about 30 of the strikers, some of whom were named ---
22 there were about a dozen or more named in the
23 injunction --- and I think it is fair to say that those
24 people have less respect for the law today than they
25 had before that strike happened, not because of anything
26 that the union did or not because of anything that a
27 particular policeman did, but because of what we are
28 confronted with as the law as they understand it, that
29 they are not innocent until proven guilty, but that they
30 are guilty. They went in there some of them, and they



1 had a lot of courage, and they went into the witness
2 box and tried to prove themselves innocent, but they
3 did not have a chance.

4 THE COMMISSIONER: I can't agree,
5 because I know that is not the tradition of our courts.
6 I think with a great deal of respect for you, Mr.
7 Russell, that you rather confuse your notion of the
8 facts with the facts themselves, because it is very
9 easy to tone down the sharpness of action or the
10 quality of action. You can use every kind of adjective
11 to reduce the communication to another person. I can
12 say that I am rather interested in your command of
13 adjectives because you do a great deal with words, you
14 know.

15 MR. RUSSELL: You are distorting, if
16 I may say so --- you spoke about the tradition of the
17 courts. I have a high respect for the tradition of the
18 courts, Mr. Commissioner, in all manner of cases
19 except an injunction in a labour dispute. There every-
20 thing becomes different, sort of like Alice in
21 Wonderland.

22 THE COMMISSIONER: Let me put this
23 to you: what would you say if we tried to get rid of
24 the importation of strikebreakers?

25 MR. RUSSELL: What do I say if we tried
26 to get rid of that?

27 THE COMMISSIONER: Of the picket line
28 altogether --- you see, the picket line is relevant
29 to a large-scale strike. You take the Nickel Company
30 up at Sudbury or the steel company in Hamilton, when you



1 have two, three, four or five thousand people; when
2 they strike the plant's production stops, doesn't it?

3 MR. RUSSELL: Yes.

4 THE COMMISSIONER: That is the
5 object of your efforts by way of striking, isn't it?

6 MR. RUSSELL: That is right.

7 THE COMMISSIONER: Then, from that
8 moment on the so-called picket line, so far as the
9 object of the strike is concerned, has been rendered
10 useless. Why would you say that on such an occasion
11 you want to keep up a picket line?

12 MR. RUSSELL: Well, we don't. You have
13 two types of situations.

14 THE COMMISSIONER: Well, let us
15 accept that, then. Once you have a strike that stops
16 the work, then the picket line becomes a fifth wheel.

17 MR. RUSSELL: Oh, I see your problem.
18 Let us just examine that if you don't mine. We have
19 two types of situations. You have the situation where
20 a strike is called and for whatever reason, the employer
21 makes no effort to get any production. At that point
22 you have relatively small picket lines, certainly
23 after a few days, it becomes apparent. The picket
24 lines are normalized down to relatively few people
25 at each gate. It becomes a battle, if you will,
26 between the ability of the employees to withstand
27 certain economic hardships and the employer.

28 THE COMMISSIONER: To do the same
29 thing.

30 MR. RUSSELL: Yes.



1 THE COMMISSIONER: As he views it.

2 MR. RUSSELL: But where the problem
3 arises in that type of situation ---

4 THE COMMISSIONER: No, I agree, but
5 you do have that as one extreme. You have that
6 situation. You have achieved the stoppage of the work
7 which is your objective.

8 MR. RUSSELL: That is right.

9 THE COMMISSIONER: And therefore, if
10 you can maintain that, then you may rest in your hall
11 or your home or anywhere you please. Then we come down
12 to the stage where there might possibly be replacements.
13 When do you think that begins?

14 MR. RUSSELL: That begins very often
15 before a strike because, as I said before, the
16 employer plans --- we are men of the world here --- the
17 employer works out his plan; there are specialists in
18 this field, in business.

19 THE COMMISSIONER: I know, but his
20 production ceases; we are assuming that. Take a plant
21 of 500: Do you think you can replace 500 men?

22 MR. RUSSELL: Well, not very easily, but
23 that is not his objective.

24 THE COMMISSIONER: I am not talking
25 about his objective, I am talking about the facts of
26 replacements and even when you come down to 300 the
27 question becomes important then whether the men to be
28 replaced are skilled men or semi-skilled men rather
29 than ordinary labourers, does it not?

30 MR. RUSSELL: In many instances, yes.



1 THE COMMISSIONER: And you may reach
2 a point where he may maintain a partial production and
3 in the course of time, as it was related here yesterday,
4 I think, he might over a period, say, of months or
5 even a year, he may be able to reach the point at
6 which time the issues with which you are concerned
7 will arise because you have now lost the power of
8 closing that down, but if he is not allowed to bring in
9 replacements, you see that danger is removed and the
10 only possible replacement would be from your own men.
11 Would you claim the right to picket in order to
12 maintain the morale of your own men?

13 MR. RUSSELL: As our brief suggests,
14 I think it would be wrong to take away that right. In
15 life I don't know how it would work under those
16 circumstances.

17 THE COMMISSIONER: I am asking you
18 the specific question.

19 MR. RUSSELL: Yes, I think it would
20 be wrong to take away as a right ---

21 THE COMMISSIONER: You see when you
22 talk about rights, what do you mean really?

23 MR. RUSSELL: I mean what I think I
24 described earlier that John Smith has worked there for
25 ten years, now he is outside advertising the fact ---

26 THE COMMISSIONER: Well, you are really
27 talking about what we sometimes call moral rights.

28 MR. RUSSELL: Yes.

29 THE COMMISSIONER: They are not
30 legal rights. You would not allow me to trespass upon



1 your property any more than Rockefeller will allow one
2 member of your union to trespass on his.

3 MR. RUSSELL: Of course we are not
4 trespassing on their property.

5 THE COMMISSIONER: Yes, you are
6 trespassing on it. Put yourself in the position now
7 not of a worker but of an employer --- and I am in the
8 working class as well as you --- what would you do now?
9 You know there are unions today who run huge banking
10 institutions.

11 MR. RUSSELL: We don't.

12 THE COMMISSIONER: But there are.
13 I am speaking about labour unions and I have in mind
14 the Mine Workers in the United States. They become
15 capitalists. What do you suppose their relations to
16 their employees are today? Have you ever inquired?

17 MR. RUSSELL: In my view it is a
18 regrettable situation.

19 THE COMMISSIONER: Well, all I am
20 mentioning that for now is not to show what special
21 situations may prevail but to indicate the general
22 tendency of human beings.

23 MR. RUSSELL: I don't think it is
24 fair to say that the Mine Workers' particular situation
25 with regard to the banks is typical of labour any
26 more than the fellow who hits a would-be scab over the
27 head with a two-by-four is typical of the picketers.
28 He is an individual.

29 THE COMMISSIONER: In one sense, and
30 according to the leadership of that union it has reached



1 the supreme triumph in the objects both of labour
2 organizations and of the enterprise which lies at the
3 bottom of it and which is accepted by you and all the
4 others.

5 MR. RUSSELL: By the way, on this
6 question --- maybe I misunderstood you, but when you
7 spoke about trespassing maybe you were using it in
8 some broad term that I don't grasp.

9 THE COMMISSIONER: I am using it in
10 the same sense as you would use it if tomorrow morning
11 you came out and found that I was parking my
12 automobile on your front lawn.

13 MR. RUSSELL: That is what I mean.
14 We don't dare step over the line, so to speak, that
15 invisible line ---

16 THE COMMISSIONER: And you don't
17 allow it either as an owner of property.

18 MR. RUSSELL: No, we are not
19 wanting to step on his property.

20 THE COMMISSIONER: Well, you wanted
21 to know what I think is trespassing. I am telling you.

22 MR. RUSSELL: I see. We certainly
23 have no desire ---

24 THE COMMISSIONER: But I would like
25 to come back to the other and see fundamentally why
26 it wouldn't be entirely satisfactory to you because
27 I know that if you are against it you don't represent
28 the general opinion ----

29 MR. RUSSELL: I know it has been
30



1 suggested more than 20 years ago --- more than 20 years
2 ago I heard the suggestion made --- in a strike that
3 our union was participating in at the time that there
4 should be a law that when there is a legal strike on
5 the government should issue the employer with a
6 special kind of a flag and he puts that flag up.
7 Now, this was made by a serious leading trade unionist
8 in this province who is still around today. He should
9 put that flag up and that flag says, "There is a legal
10 strike on here". It is not too far from what you
11 were speaking about and therefore no one in that
12 bargaining unit should go in there and work and then
13 on that basis there would be no pickets. This was
14 a serious proposal put forward 20 years ago.

15 THE COMMISSIONER: I am not
16 suggesting the use of flags. I rather take it that
17 that is an evidence of immaturity rather than maturity.

18 MR. RUSSELL: I didn't think it was
19 very practical then and I don't think it is practical
20 now.

21 THE COMMISSIONER: You don't have
22 to have a flag to show that the workers are on strike.

23 MR. POLLOCK: These people who are
24 crossing the line surely know there is a strike on.

25 MR. RUSSELL: Let me give you an
26 example. I prefer not to mention the name of this
27 company, we have pretty good relations with them
28 today, but we had a strike on that lasted 20 weeks.
29 Getting at something you said the problem here and
30 in every strike is that sooner or later it gets to the



1 question of morale because for the employer to get back
2 those employees which he needs when you were speaking
3 of a plant of 500 people with so many skilled he can't
4 operate without them. He can bring in a few people
5 here and there, but the real issue ---

6 THE COMMISSIONER: I am assuming
7 that he is not permitted to do that except from your
8 own group. If you can't command your group, do you
9 think you have any right to indulge in these
10 demonstrations for your own purpose, to consolidate
11 your own cohesion?

12 MR. RUSSELL: This is a new concept,
13 but I was just going to explain to you what this
14 particular employer did from the point of view of
15 morale. It so happens that the front of the plant
16 near where they were picketing was where they had
17 big, heavy punch press machines. So the office employees
18 were taken in there and shown how to makes these things
19 operate and they make a terrific noise and all day
20 long they went bang, bang --- you could hear them out
21 at the street clearly --- a big, heavy machine. The
22 purpose of that, of course, combined with letters
23 sent out by the employer --- and this gets to the
24 question of controlling your own people as you were
25 saying --- was to try to convince them, "Look, you had
26 better hurry up and get back, you hear those big
27 presses going, somebody else is going to have your
28 job". Fortunately, the workers were more sophisticated
29 there and recognized that it was a question of morale
30 because if two had gone four would have followed, then



1 eight, then sixteen and so on. They didn't.

2 When the strike was finally over,
3 of course, it turned out that very valuable dies had
4 been smashed, a great deal of scrap had been created,
5 nothing productive had resulted, but that employer
6 knew that would happen and was prepared to pay a
7 very high price to try and break the morale because
8 it is recognized pretty well that if you can do that
9 you can succeed in breaking a strike. It is the most
10 important asset.

11 THE COMMISSIONER: If your
12 organization realizes that all it has to do to maintain
13 the stoppage which it desires to bring about is to
14 stand together do you think your loyalty within is
15 so weak that that can be made injuring?

16 MR. RUSSELL: No, I don't think so,
17 sir, but I don't think it is as simple as you put it
18 either because I am very, very mindful --- I have not
19 heard this expressed that you are expressing now,
20 but I would say that if that had happened in the
21 Lanark strike, if there was such a law as you are
22 describing it would have been won instead of lost
23 because this company hired station wagons and buses,
24 since they couldn't get scabs in the community ---

25 MR. POLLOCK: Strikebreakers.

26 MR. RUSSELL: Couldn't get strike-
27 breakers.

28 MR. POLLOCK: There is a difference
29 between scabs and strikebreakers. Scabs are the ones
30



1 who go back from the original workers.

2 MR. RUSSELL: Yes. They hired
3 strikebreakers as far away as 40 miles, paid their
4 transportation in, and in fact had their own either
5 station wagons or buses located here and there within
6 a radius of 40 miles in the Niagara Peninsula area.
7 These people were new people, these people couldn't
8 operate the plant efficiently, but they could and
9 did have a tremendous effect on morale in conjunction
10 with the injunction. The injunction made this
11 possible.

12 THE COMMISSIONER: How did it make
13 it possible when you say the police are there to
14 open the way to open the plant

15 MR. RUSSELL: Well, the injunction
16 made it possible in the following manner: Here were
17 people recruited, brought in by the company buses
18 and station wagons --- people from 20, 30 and 40 miles
19 away. The injunction brought two things: It brought
20 a large number of police and it created a situation
21 where you had, I think, three or four allowed at the
22 gate. Now, what hope was there? These were people
23 who genuinely didn't know what it was all about, they
24 came off farms and so on. There was no way of
25 reaching these people.

26 THE COMMISSIONER: They weren't
27 brought in by the carload from farms without knowing
28 why they were.

29 MR. RUSSELL: Do you think that the
30 rights of the picketers, let us say, even to stop those



1 cars ---

2 THE COMMISSIONER: But you assume
3 now that when these buses arrived that the gate would
4 be opened and they would go in.

5 MR. RUSSELL: They would.

6 THE COMMISSIONER: How would a
7 picket line prevent that?

8 MR. RUSSELL: It may have been
9 necessary in order to speak to these people to actually
10 stop those cars.

11 THE COMMISSIONER: Exactly, and you
12 include that as part of the function of picketing.

13 MR. RUSSELL: Where the provocation
14 is such by the employer of the nature that I just spoke
15 of.

16 THE COMMISSIONER: When you spoke of
17 provocation before what you said was --- and it is
18 easily understood --- he sent provocateurs to provoke
19 misconduct by the strikers themselves.

20 MR. RUSSELL: That is right.

21 THE COMMISSIONER: They are not doing
22 that at all. The only thing that is being done is that
23 innocent people as you say from the farms are being
24 brought in there to work and you open ranks and that
25 thing goes in. Now, do you think you have the right to
26 stop that?

27 MR. RUSSELL: I think we have the
28 right, say, for example, to hand them a leaflet which
29 says, "Look, brother, look, sister, this is the
30 issue, here is the problem, here is how you are being



1 used" --- yes, I think we must; otherwise, we have no
2 way of reaching these people. They live all over,
3 they are picked up by special buses and cars, we have
4 no way, the injunction prevented us.

5 THE COMMISSIONER: You are not really
6 prevented from reasonable persusasion. I am not
7 criticizing it, it is inevitable in human relations
8 to show by the mass that there is a concealed power
9 here which is intended, as somebody has expressed it
10 and I think it is a very good expression, "We mean
11 business".

12 MR. RUSSELL: That is fine, but not
13 in the first instance. Workers are very tolerant,
14 sir. In the first instance we would like to be able
15 to talk to or at least tell that person something. The
16 injunction prevents that.

17 THE COMMISSIONER: Is tolerance
18 evidenced when the strike is proposed for a certain
19 day and before that day arrives you see these groups
20 of people who jump the line, as they say, is that an
21 evidence of your tolerance you are speaking about?

22 MR. RUSSELL: I still say workers
23 are very tolerant because, sir, you have to know the
24 other side.

25 THE COMMISSIONER: I am not ignorant
26 of the other side at all. I know that here is a
27 case where human nature throws off all restraints and
28 it is showing itself on both sides in the raw and
29 after these storms settle down and you look back upon
30 it, well, I haven't any doubt that sometimes you



1 have said to yourself, "How unnecessary was that".

2 MR. RUSSELL: I am not suggesting
3 we don't make mistakes and the workers don't make
4 mistakes, but looking at a situation like you are
5 portraying about jumping the gun and so on, a strike
6 doesn't just go like that (Indicating) any more than
7 anything else does in life; there is a buildup. When
8 the situation becomes electric, so to speak, some
9 employers in a situation where they don't want a
10 strike instruct their foremen, "Now, look, be very
11 reasonable, even bend over backwards", and so on.
12 In those situations you usually don't find the gun
13 being jumped. However, there are the opposite types
14 of situations where the employer is endeavouring to
15 do certain things. From where he sits that is his plan
16 and the instructions go out to the foremen and the
17 lower echelons of management to be pretty sharp.

18 THE COMMISSIONER: I daresay.

19 MR. RUSSELL: Because the situation
20 is electric, a spark starts it and away we go.

21 THE COMMISSIONER: I haven't any
22 doubt that is it, and I haven't any doubt on the other
23 hand that the managers in the General Mineworkers'
24 banks do the same thing. All I am saying is that
25 human beings are all alike. Some people are better
26 protected, I agree, by property, but that is what you
27 accept; that is what we all accept, and that stands
28 in the way.

29 MR. RUSSELL: We use some illustrations
30 in this brief. The strike at the Wolverine Tube



1 Company in London was lost because of an injunction.
2 The strike in the Toronto newspapers was lost because
3 of an injunction. We go on to say in the brief --- and
4 you may agree or disagree ---

5 THE COMMISSIONER: They had pickets
6 and everybody knew what was going on.

7 MR. RUSSELL: Oh, yes, but they were
8 not allowed to exercise their right as individuals to
9 be there. As I said in the first instance, for each
10 of them to be there. But, look at what happened in
11 Oshawa.

12 MR. POLLOCK: Before we get into
13 that could we take a ten-minute break?

14 THE COMMISSIONER: Yes, we will
15 recess for ten minutes.

16
17 ---Short recess.

18
19 MR. POLLOCK: Before we get into
20 the examination of the particular aspects of these
21 different disputes set out in your brief, I wonder
22 for a moment if we can talk about the general background
23 and framework of the injunction question that you
24 have raised insofar as figures are disclosed by the
25 report on the labour injunction study by Dean
26 Carrothers. As I understand your position, it is that
27 it seems almost automatic to you and to the members
28 of your union that as soon as there is a strike there
29 is an injunction, and that they resent this inter-
30 ference. As a matter of figures, I would like to have



1 your views on these. In the period of 1958 to 1965 your
2 union has been involved in 53 strikes, according to
3 the statistics of the Department of Labour, and I am
4 speaking of Ontario and of those industries certified
5 under the jurisdiction of Ontario and not federally,
6 if there are any. 53 strikes, and during that period
7 of time there have been eight injunctions issued
8 against you: One in 1958 --- let me give you the
9 figures: There were five strikes in 1958 and there
10 was one injunction. There were seven strikes in 1959
11 and there was one injunction. There were two strikes
12 in 1960 and one injunction. There were four strikes in
13 1961 and no injunctions. There were three strikes in
14 1962 and one injunction. There were twelve strikes in
15 1963 and one injunction. There were twelve strikes in
16 1964 and three injunctions, and eight strikes in 1965
17 and no injunctions. I do not have the figures for
18 1966.

19 Now, it seems to me that you have got
20 eight situations where an injunction has been granted
21 in 53 strike situations. There were 45, by simple
22 arithmetic, strikes that have not so far as you have
23 described been impeded by injunctions. I wonder if
24 you have any comments on those general figures?

25 MR. RUSSELL: Perhaps I have not
26 been doing my homework, and I am not questioning your
27 figures. I presume they are accurate, but I can only
28 say it seems like an awful lot more injunctions than
29 that. But generally speaking injunctions --- we have
30 never said and never maintained that every strike had an



1 injunction. What we have said, and do believe, is
2 that where the circumstances are such that the employer
3 decides that he is going to smash the union --- you
4 see, it is a very serious decision he has to make.
5 I don't even remember the names of these places, but
6 I think if we were to look at them they would probably
7 almost all be lost.

8 MR. POLLOCK: The eight cases where
9 the injunction was granted out of the 53 were lost?

10 MR. RUSSELL: All right, I did not
11 even know that, but I assumed it because when the
12 employer --- and I am speaking generally now; there
13 are some exceptions, but in almost all instances ----
14 when the employer goes in that direction he is out to
15 smash the union as such. It is not a question of who
16 is going to win the strike or who is going to lose
17 the strike at that point. I think I am speaking well
18 beyond our union; I think in this regard I can speak
19 for practically all the trade union movement, that
20 when an employer moves in the direction of an
21 injunction he is moving in the direction of eliminating
22 the specific union in that plant. This is what is at
23 stake, and most of us recognize that at that point.
24 I did not know, but Mr. Pollock has told me, and I
25 certainly accept that in each instance it was not the
26 strike that was lost; it was the union that was smashed
27 which meant going back to what we had originally,
28 the right to have the union of their choice was at
29 stake. This is what was at stake, not five cents an
30 hour more than last year.



1 THE COMMISSIONER: What would you
2 say about a greater federation of unions to prevent
3 a union being destroyed?

4 MR. RUSSELL: I agree with that. Our
5 union has subscribed to that --- mind you, there have
6 been practical difficulties. The theory that there
7 should be one union in each industry --- naturally,
8 being an industrial union we subscribe to the
9 industrial concept, and we have been of the opinion
10 and are of the opinion that there should be one union
11 in each industry. I think that would be somewhat
12 helpful.

13 THE COMMISSIONER: What is the
14 resistance to that?

15 MR. RUSSELL: It is extremely
16 complicated, sir.

17 THE COMMISSIONER: It is not classified
18 material, is it?

19 MR. RUSSELL: No, but it is complex.
20 The resistance goes back a long way. There is, first
21 of all, the dispute that has existed for many years
22 between craft unions and industrial unions. I think
23 that is probably basic. As you know very well, prior
24 to 1935-36, for quite a few years prior to that when
25 the C.I.O. came into being, unskilled and semi-skilled
26 production workers were completely unorganized and
27 the craft unions would not have any part of them.

28 THE COMMISSIONER: As a result of the
29 increased technology we have, has that become lessened
30 a bit?



1 MR. RUSSELL: Yes, it has been lessened
2 for even more practical reasons. There are a number
3 of unions that I can think of who were strictly craft
4 unions in the old days; today, if I may say so, sir, they
5 are bastard unions. They are half craft and half
6 industrial. The C.I.O. became so successful, they
7 opened their doors to membership in unskilled and
8 semi-skilled areas. Then unions were set up especially
9 to take care of those people in the industrial area.
10 Hence you had crossovers --- some in this union and
11 some in that one. Our industry is in particularly
12 great difficulty in this regard. There are so many
13 relatively small shops in this industry, and so many
14 claims on its jurisdiction, one might say, that
15 electrical workers to my knowledge spread through at
16 least half a dozen unions. While we represent the
17 bulk, it is true in Canada the largest single force of
18 electrical workers in the industrial field, nevertheless
19 they are spread out into at least half a dozen unions
20 and probably more. This creates problems. I think it
21 creates problems all around.

22 But, the point you are raising, Mr.
23 Pollock, I think helps us quite a bit. It helps our
24 presentation quite a bit, and I think it should be
25 most helpful to this Commission, and that is that every
26 single place where an injunction was granted the
27 workers were deprived of a union.

28 MR. POLLOCK: Do you know that as a
29 fact, or are you assuming that?

30 MR. RUSSELL: They were deprived of our



1 union. Whether they subsequently got another union ---

2 THE COMMISSIONER: Were these eight
3 lost as strikes?

4 MR. POLLOCK: Mr. Russell suggests
5 that they are.

6 THE COMMISSIONER: Do you have any
7 information you could give us?

8 MR. RUSSELL: I understood you to
9 say that.

10 MR. POLLOCK: Oh, no, I suggested to
11 you that there were eight out of 53 strikes in which
12 an injunction had been granted, and you suggested to me
13 at that stage that you thought, although you had no
14 figures, that in those cases those were the instances
15 where the strike was lost.

16 MR. RUSSELL: Oh, I thought you had
17 said that.

18 MR. POLLOCK: No.

19 MR. RUSSELL: I don't have the data
20 here.

21 THE COMMISSIONER: Could you get it?

22 MR. RUSSELL: Oh, surely.

23 THE COMMISSIONER: I would like to
24 know.

25 MR. RUSSELL: We will supply you with
26 that. I can think of some of them and we have at least
27 one set out in this brief, as was requested. I can
28 think of a number of others.

29 MR. POLLOCK: Let me deal with that.
30 I realize there was maybe a misinterpretation of the



1 agenda that went out when it suggested that a strike
2 or a dispute should be set out. We are interested in
3 all of them that you were experienced in, in the
4 analysis of the form that is set out in the agenda.
5 We did not want to restrict you in any case. As a
6 matter of fact, you chose a happy example as far as I
7 was concerned because I knew something about it. We
8 would like you to develop, if you could, on the basis
9 of the outline set out in the second part of this
10 agenda, all of the strikes where it is possible now
11 to recall, to get this information, all of those
12 facts including the replacement personnel, the rates
13 of wages and the duration.

14 MR. RUSSELL: If that is the case,
15 may I outline one that is relatively fresh in my
16 memory where I think the situation illustrates the
17 point rather well.

18 MR. POLLOCK: I can give you a copy
19 of this agenda and you can look at the second part of
20 it and deal with the points that you can recall.

21 MR. RUSSELL: All right, take the
22 size and location of the industry. The industry is one
23 of those half and half. I am referring now to what
24 became known as Lanark but which was Essex Wire in
25 Windsor. Essex Wire is one of those half and half
26 industries. They supply what is called the harnesses
27 in automobiles; that is, the electric work --- the
28 wiring harness. They were established in Windsor
29 for quite a few years, and subsequently were organized
30 by the U.A.W.



FJN/SS 1 They had in the neighbourhood of 400 employees there.
2 The U.A.W. had established a certain wage rate there.
3 They are primarily female employees ---about 85% or
4 maybe even higher working there and I remember the
5 rate that the U.A.W. established. It was \$1.42 which
6 is a common rate for females and that would be in,
7 I think, 1962 or thereabouts.

8 MR. POLLOCK: Well, the strike was in
9 1964.

10 MR. RUSSELL: 1962 would be right,
11 then. They went into negotiations with the employer and
12 these are facts that I am stating because they have
13 been carefully checked and verified. Whenever I don't
14 state facts I will state it as an opinion. The U.A.W.
15 was not aware of the fact during the negotiations that
16 the employer was making alternate arrangements to set
17 up another plant and they continued negotiations and
18 finally went out on strike. It was not until they
19 were out on strike for some time that they realized
20 that the employer was not going to reopen the plant
21 there, that he had made alternate arrangements in
22 Dunnville. They had bought or leased the old Sylvania
23 plant there --- not old, it is quite a new plant,
24 Sylvania built it and then left --- a fair-sized plant
25 in Dunnville. They either bought or leased that
26 plant, and with 30 employees --- now, it was well
27 known to the management, and I suggest to others,
28 that they would be having between 400 and 500 employees
29 and when there were 30 employees another union applied
30 for certification, received certification and signed



1 a five-year collective agreement with the employer which,
2 at the end of the five years, would have left that big
3 group of workers, the female workers, some 14 or 15
4 cents below the \$1.42 rate that they were getting in
5 1962.

6 MR. POLLOCK: What union was that?

7 MR. RUSSELL: The International
8 Association of Machinists, since you ask me, which, of
9 course were away out of their jurisdiction obviously.
10 The judge asked about jurisdiction of this industry.
11 The employees were under that collective agreement then
12 for approximately two years. You will appreciate
13 Dunnville is a small community. By 1964 they had
14 between 400 and 500 employees, closer to 500 than 400,
15 and a large number of these employees were drawn from
16 the surrounding area which includes Welland. We
17 happened to have a union of approximately 3,000 members
18 in the City of Welland. A number of wives of our
19 members were working there and approached us on the
20 basis that it was the worst type of sweatshop. Not
21 only were the wages low, but the working conditions
22 were pretty despicable. We examined it and found it
23 to be true. We looked at the collective agreement,
24 we went into the history of it and found what I just
25 told you to be a fact, that practically everybody who
26 was there with the exception of 30 or 40 people came
27 in and had the agreement, the agreement was there, they
28 couldn't do anything about it. They were sort of
29 captives.

30 Under those circumstances we agreed



1 to organize and did organize and the provincial Labour
2 Relations Board conducted a vote and our union won
3 the vote, the vote, of course, having to be between
4 the incumbent union and ourselves. So it was a first
5 agreement we then sought to negotiate.

6 MR. POLLOCK: At this time there were
7 what, about 400 employees in the plant?

8 MR. RUSSELL: More, between 400 and
9 500. I think it was weighted on the 460 or 470 side.
10 And so we commenced collective bargaining for the
11 renewed agreement. It became very clear --- I
12 personally participated in those negotiations having
13 had a little experience in negotiations --- that the
14 employer was using a firm of lawyers from Windsor,
15 the local manager had absolutely no say. The lawyer
16 was getting his instructions from the United States
17 and the collective bargaining as we know it or as we
18 assume it should be was pretty much of a farce.

19 MR. POLLOCK: He was getting his
20 instructions from the head office, I take it, in the
21 United States?

22 MR. RUSSELL: Yes.

23 MR. POLLOCK: Why was it a farce ---
24 in the sense that he was getting his instruction from
25 the United States? Were his instructions bad, do you
26 mean?

27 MR. RUSSELL: Well, it was worse than
28 that. It was one of those rigid situations where he
29 would come in and state what he was told and that was
30 it. There was no bargaining as such. There was no



1 flexibility, there was no room, there was no point in us
2 making a point, so to speak, to convince him because
3 he couldn't move anyway. He was quite a nice chap as
4 an individual, and we could convince him, as he said
5 on some occasions. I think we made good points and he
6 admitted this, but he couldn't do anything about it.

7 MR. POLLOCK: He took these points
8 back?

9 MR. RUSSELL: I presume.

10 MR. POLLOCK: And then argued them
11 out, I suppose, with his instructors.

12 MR. RUSSELL: Yes. This was a pretty
13 tough company in the United States. You may recall
14 that the Governor of Michigan, in Hillsdale, Michigan
15 there was a riot with the same company and the Governor
16 stepped in -- one of the few times I have seen the state
17 take a somewhat different position than we know it
18 here, because the company in the United States --- and
19 this is all in the records --- had hired gangsters
20 with guns and so on and the Governor at this point had
21 to step in and disarm these people and this was as a
22 result of a strike in the United States at Hillsdale,
23 Michigan. Otherwise, there was real danger that there
24 would be serious loss of life. All this happened
25 before we got to the point where we were so we were
26 familiar with this. This happened, six, eight, nine
27 months before we reached our strike position. So we
28 knew well what kind of company we were dealing with.
29 MR. POLLOCK: You were prejudiced
30 against them.



1 MR. RUSSELL: Well, we were prejudiced
2 against their policy.

3 MR. POLLOCK: In the broad sense of
4 the word?

5 MR. RUSSELL: We were knowledgeable
6 that here is a company which is tough and here is a
7 company which acts in 1964 like certain companies used
8 to act in the 1920's if we had not seen that before.
9 At least they did that in the United States. We didn't
10 think it was possible in Canada. However, we learned
11 to our sorrow that certain things were possible in
12 Canada.

13 Finally, after very lengthy procedures,
14 conciliation boards and so on dragged out over a long
15 period of time, the lawyer was quite busy with other
16 matters and so on ---

17 MR. POLLOCK: Let me stop you there.
18 How long did your negotiations go on and how many
19 meetings did you have with the company?

20 MR. RUSSELL: I will have to go from
21 memory at this point, but I would say that in direct
22 negotiation we had about ten meetings with the company
23 and in the two steps of the conciliation procedure I
24 believe we had four or five meetings.

25 MR. POLLOCK: Over a period of how
26 long?

27 MR. RUSSELL: Over a long period - - -
28 March to September, Mr. Ferguson advises me.

29 MR. POLLOCK: What were the
30 significant questions in dispute?



1 MR. RUSSELL: Wages.

2 MR. POLLOCK: Just wages?

3 MR. RUSSELL: That was not the only
4 question, but the significant point, no question about
5 that, was wages. We established the fact or we learned,
6 rather, and then established it that employees doing
7 the identical work in Oshawa, at the General Motors
8 plant, at that time were making 85 cents an hour more
9 than they were getting in Dunnville. Now, that was not
10 a small amount of money.

11 MR. POLLOCK: That is what you were
12 asking for?

13 MR. RUSSELL: No, far, far less than
14 that. We merely established it and used it as a bargaining
15 medium and drew it to the attention of the company and
16 the conciliation board officer and so on. This company
17 sells its products to big people. They sell to Ford who
18 I think was their largest customer, and to Chrysler
19 and to American Motors. To the best of my knowledge
20 those were their main three customers. General Motors
21 made their own.

22 So when you ask what were the
23 matters in dispute --- economic matters. Wages were
24 the outstanding question in dispute and no one ever
25 had any doubt about this. The parties, again to answer
26 your question five, I would say no, the parties were
27 not brought closer together by conciliation; it was a
28 farce, a complete farce. People representing management
29 had no authority to go beyond what their instructions
30 were in the United States and their instructions in the



1 United States were completely unrealistic and now I am
2 expressing an opinion, but it is my very strong opinion
3 that as far back as the conciliation procedure and
4 possibly earlier the company had made up their mind in
5 terms of the direction they were going.

6 THE COMMISSIONER: Is that procedure
7 similar to the one which was effective in Michigan, say?

8 MR. RUSSELL: I am not thoroughly
9 familiar with the legislation in the United States.
10 It is my understanding that they don't have conciliation
11 as we know it here, but when a strike breaks out they
12 have conciliators or mediators who bring the parties
13 together and attempt to either ---- sometimes just
14 before, but it is not the same as ours. They can
15 strike at the termination date of contract, for
16 example.

17 THE COMMISSIONER: I wondered if
18 those in the United States who gave the directions were
19 familiar with the procedures up here.

20 MR. RUSSELL: Well, I would imagine
21 that their lawyer who participated would have
22 acquainted them with our labour laws.

23 THE COMMISSIONER: They weren't
24 familiar through their own practice there?

25 MR. RUSSELL: Well, their practice,
26 as I said, is similar but different. I expressed that
27 opinion because of what followed, that they had made
28 up their minds, they knew that this union would not
29 recommend a five-cent increase which was what they were
30 trying to make stick and which was what they had agreed



1 to in the five-year contract. It was expressed in
2 percentage, but it amounted to about five cents an hour.
3 They knew that the employees would not accept it and
4 therefore they must have known that a strike would
5 flow from it.

6 Here again I go back to that word ---
7 they provoked it, and I use the term advisedly in the
8 sense that they did things in the plant. They tightened
9 up. At the time we thought they were rather foolish
10 or even stupid, some people said, but now in retrospect
11 I think it is perfectly clear that they weren't
12 stupid or anything like that. They were working to a
13 plan to madden the people, to antagonize them, to make
14 certain just in case there was some chance it might be
15 accepted that they were going to have a strike and they
16 did and we had an injunction immediately. This is the
17 place where we went to court that I described to you
18 earlier.

19 MR. POLLOCK: You jumped over some
20 steps. Was there a strike vote?

21 MR. RUSSELL: In our union, sir, our
22 constitution now and for a number of years has provided
23 the following ---

24 Y/SS MR. POLLOCK: You can just answer
25 whether there was a strike vote or not.

26 MR. RUSSELL: In this situation there
27 was a strike vote by secret ballot, as in all situations,
28 and there must be 70% or more. I think it might be
29 illuminating to the judge to know that not only in
30 this particular case but in all cases our constitution



1 provides for a 70% strike vote or more.

2 THE COMMISSIONER: 70% of those
3 voting?

4 MR. RUSSELL: Yes, but there must be
5 a sizeable --- it must be held in such a way that every-
6 body must be advised and it must be at such a time and
7 place that the maximum number can participate. As I
8 say, a strike took place near, I think, midnight, if I
9 remember correctly --- yes, at midnight. Well, the
10 company was well prepared. They had huge big
11 floodlights the likes of which I have not seen except
12 in Hollywood, set up on the premises. Although prior
13 to that they never had any uniformed guards, but they
14 hired --- well, they were everywhere --- 30 or 40 guards
15 with walkie-talkies, some of them up on the roof ---
16 oh, prior to that, the plant is a fair-sized plant and
17 it had large grounds, and about the time we entered
18 conciliation, or thereabouts, and it had always been
19 that way for the past two years, about the time we
20 entered conciliation they had erected on their behalf
21 a big steel fence. It is not unlike some of the plants
22 have, except that they did not have one before. It was
23 about a seven or eight-foot steel wire fence.

24 MR. POLLOCK: They assisted you in
25 your picket line, then? You would not have to patrol
26 all the way around the plant then.

27 MR. RUSSELL: They assisted in other
28 ways. In examining the affidavits for injunction ---

29 MR. POLLOCK: Keep to the facts:
30 At midnight the strike came on and then what happened?



1 MR. RUSSELL: Actually I can't recall,
2 but it seems to me we had not planned on calling the
3 strike until the morning shift, and I recall the
4 people coming and telling me --- mind you, we were
5 in the legal period. It was purely a technical question.
6 It seems to me now someone was provoked in that plant
7 and they walked out.

8 MR. POLLOK: The three shifts?

9 MR. RUSSELL: Yes.

10 MR. POLLOCK: They walked out at
11 midnight and what did they do then?

12 MR. RUSSELL: Actually the shift was
13 to come off at midnight. You see, the women would not
14 work at midnight. Well, the women worked up to
15 midnight, and it was the afternoon shift, well, there
16 was quite a bit of confusion because, as I recall,
17 we were not completely prepared for it, although a
18 strike was inevitable. We were thinking about the
19 morning. They set up picket lines and, as I say, the
20 company was prepared.

21 MR. POLLOCK: How many pickets on
22 the picket line?

23 MR. RUSSELL: There was complete
24 chaos at that point. Quite a number of the young men
25 who came off, I think, stayed there all night. We
26 shooed the women off and told them to come back in the
27 morning because it was around midnight when they came
28 out and again because a practice of ours, generally
29 speaking, in a normal strike where there are men and
30 women, we try to work on the basis that about dark,



1 whenever that happens to be, summer or winter, when it
2 is seven o'clock in the winter or nine o'clock in the
3 summer, any females should not be on duty after that
4 time. So, we tried to send the women home. I think
5 some of them hung around for a while. We tried to
6 get some organization. Some of the men stayed around
7 all night, but the bulk of them, I believe, went home.
8 The next morning, of course, the whole shift came to
9 work plus the second shift who knew they were on strike,
10 so we had a bunch of people there.

11 MR. POLLOCK: How many?

12 MR. RUSSELL: Oh, 400-odd. We tried
13 to organize them as best we could in terms of a
14 circular picket line, but we soon found that everything
15 was ready for us. As I say, the guards were there,
16 the company had by pre-arrangement certain station
17 wagons, certain people came up to the picket line.
18 There were quite a number of police there, and people
19 went in. Of course, there were a few names called and
20 an injunction was issued either that day or the next
21 day; I can't be certain. From there on it was just a
22 matter of time. The morale of the people just went
23 like that. As I have told you before, the company
24 knew they could not get the local people, so they
25 spread out and went to the Indian reserves. There
26 are several Indian reserves. I don't blame these
27 people. The morale went down, and after a while
28 people said, "We can't win".

29 THE COMMISSIONER: How many people
30 at that time had been brought into the plant from the



1 outside?

2 MR. RUSSELL: They were bringing them
3 in every day. It built up. It started off with 20 or
4 so and finally I think it built up to over 150.

5 MR. POLLOCK: They started to bring
6 them in the first day?

7 MR. RUSSELL: Yes, the very first.

8 MR. POLLOCK: Before there was any
9 injunction?

10 MR. RUSSELL: The very first morning.
11 That was the creation of it. That was what they used
12 as the creation.

13 MR. POLLOCK: And I take it this
14 fence had gates in it, and how many gates did it have?

15 MR. RUSSELL: There were two very
16 wide areas. It was like two very wide driveways, but
17 they were side by side with just a post sticking up
18 between them.

19 MR. POLLOCK: 40 feet?

20 MR. RUSSELL: Yes, I would say so,
21 and these people were mainly there, although there was
22 another gate which the company closed some distance
23 away at the end of the property. They closed that and
24 locked it. There was this double gate which was
25 really the only place to go in or out. There was an
26 incident created there --- an incident! Nothing
27 serious happened.

28 MR. POLLOCK: That is an opinion.
29 Let us have the facts.

30 MR. RUSSELL: Well, the fact is that



1 somebody threw a tomato, and nobody was hurt --- that is
2 another fact. No doctors were required, no first aid
3 was required, no one was hurt in any way, shape or form.
4 These are the facts. I can't recall whether anyone was
5 arrested; I don't think so --- not that first morning.
6 I am almost certain there was no one arrested.

7 THE COMMISSIONER: Well, then, would
8 your opinion be, based on that and on other experiences,
9 that the real factor that may result in the loss of
10 your action is the employment of outside persons?

11 MR. RUSSELL: You keep coming back to
12 that, sir, and I will include that in it, but my
13 conclusions are far deeper than that. My conclusion
14 is this --- and I think this is a pretty good example
15 of it --- that any employer, Canadian or outside of
16 Canada who wants to plan, with the use of an injunction
17 to ----

18 THE COMMISSIONER: Let us leave aside
19 the injunction.

20 MR. RUSSELL: All right. Yes, in this
21 case there is no question about it. The outside people,
22 in this example, if they were not permitted to bring in
23 outside people they could not have broken the strike.
24 That is my opinion. If they were prepared to stand out
25 for a year or something they might, but in the time
26 that we are talking about, no.

27 MR. POLLOCK: In the first shift,
28 how many of these people came in? How many people were
29 employed on the shift? There are 400 altogether --- or
30 were there 400 on each shift?



1 MR. RUSSELL: On the big shift, as
2 best as I can recall it, I would say there were
3 approximately 200 on the day shift, or more --- 250;
4 perhaps 100 on the second shift and somewhere between
5 --- a small group which varied --- between 20 and 50 on
6 the midnight shift.

7 MR. POLLOCK: How many of these
8 people did they bring in the first morning for the day
9 shift?

10 MR. RUSSELL: I don't think there
11 were many, just a couple of carloads.

12 MR. POLLOCK: About 20?

13 MR. RUSSELL: That general nature ---
14 maybe even less. It was just a small number.

15 MR. POLLOCK: When did it build up
16 again? When did they bring more than 20?

17 MR. RUSSELL: Well, the injunction ----
18 the whole thing --- here is our problem. The judge
19 says don't talk about injunctions, but our problem is
20 that once our injunction is issued you are no longer
21 in a struggle with the employer for better economic
22 conditions. The whole thing has turned. You are into
23 a whole new arena.

24 THE COMMISSIONER: I think if it
25 did anything it would arouse the annoyance and the
26 opposition of the strikers. Although they might be
27 restricted as to the location there, it would not
28 affect the lowering of their morale.

29 MR. RUSSELL: I suggest that it is
30 for this reason, because they do not see any longer



1 themselves and the employer as the two protagonists.
2 As our brief tries to point out, they now see a third
3 party, and with great respect, even the most stupid
4 of them recognize the strength of that third party.
5 The strength of that third party is the state. They
6 see it there in the person of policemen, in the person
7 of sheriffs, in the person of orders. Our people were
8 served individually, and there were posted on every
9 post and tree around, what can happen to you --- big
10 things that sound awful official: The Criminal Code,
11 what happens to you under an injunction if you are in
12 contempt.

13 THE COMMISSIONER: Why wouldn't you
14 under those circumstances bring them together and have
15 a meeting and explain the thing and say, "All you have
16 to do now is to hold together"?

17 MR. RUSSELL: We did that.

18 MR. POLLOCK: Can you develop the
19 aspect of the replacement employees? They had ten to
20 20 in the first shift, and I don't expect that ten or
21 20 could conduct very much business in that plant where
22 it took 250 to do it normally, and especially when these
23 people are unskilled in any particular trade. All right,
24 so then it built up: How many went in the second day?

25 MR. RUSSELL: Well, don't skip it.
26 Then the injunction came and we were limited. The
27 injunction came right at the beginning. At that point
28 I can't recall whether we had three, four, or five
29 people at the gate --- now I remember, it was four on
30 this 40-foot gate. From there on it was just a steady



1 buildup, just a steady buildup over a period of weeks
2 until they reached, I would say, about 150, as I
3 recall it. Now, how long did it take them? I think
4 about three or four months.

5 MR. POLLOCK: It took them three or
6 four months to build up to 150?

7 MR. RUSSELL: Maybe even more than
8 that. Mr. Ferguson is reminding me of it now. From
9 September, 1964 to about January of 1965, by that time,
10 by January, they had over 200, because the morale was
11 such that some of our people were beginning to go
12 back.

N/SS 13 THE COMMISSIONER: I was wondering
14 how many of your own people went back.

15 MR. RUSSELL: Well, by the turn of
16 the year, it seems to me now in retrospect, I remember
17 we had a big Christmas party --- by the turn of the
18 year our people saw no hope in this year and it had
19 reached a point where it became routine and there was
20 just no hope and they started moving back, those who
21 had to. Others had moved out and so on.

22 MR. POLLOCK: In the five-month
23 period of this buildup what kind of production was
24 going on in the plant? You say it is gradual and by
25 that I imagine it had been developed by about 50 a
26 month so that by the end of the first month they had
27 70 people.

28 MR. RUSSELL: Well, you appreciate I
29 can't speak authoritatively on this. Of course, I kept
30 asking this question too and we had to get the



1 information from people who were not our closest people,
2 but rather through others, but the information that I
3 had, if it is accurate, is that for the first two months
4 there was nothing for all practical purposes going on
5 and then gradually they got some production. But, you
6 see, even though this was a hot situation, well
7 publicized, this company welcomed back every single
8 striker, those who wanted to go back because they
9 needed them desperately. That is because of the
10 peculiarity of their location. If that were in Toronto
11 I suggest to you that many people would have been
12 blacklisted and out and never got back there again,
13 but the location was such that even after five months,
14 you will recall that was a big year for cars, 1965,
15 they were desperate for people and so no matter what
16 they were willing to take back some of the most
17 militant and active of the strikers and some of them
18 were driven back: there was no place else to work.
19 They could work in the canning factories in the
20 canning season. During Christmas some of them took
21 jobs here and there in the stores, but once the turn
22 of the year came there was nothing to look forward to,
23 it was bleak, it was hopeless.

24 MR. POLLOCK: So you in fact closed
25 the plant for two months with the injunction limiting
26 your picketing?

27 MR. RUSSELL: You mean production-wise?

28 MR. POLLOCK: Yes.

29 MR. RUSSELL: I suppose you could
30 say that, but they always had the future ahead of them.



1 They knew that sooner or later they could afford two
2 months of limited or almost no production as long as
3 they knew that with the injunction's help it was only
4 a question of when.

5 MR. POLLOCK: It took five months to
6 get back those people.

7 MR. RUSSELL: It was only a question
8 of when, though, they had to win.

9 MR. POLLOCK: Isn't there always a
10 question of when?

11 MR. RUSSELL: But under different
12 circumstances.

13 THE COMMISSIONER: Supposing you had
14 not had that injunction, what were the measures that
15 would have enabled you to stand up more strongly than
16 you did?

17 MR. RUSSELL: I would say that if there
18 had not been an injunction the company would have
19 recognized that our people would have been able to
20 hold out.

21 THE COMMISSIONER: How would they
22 hold out if they didn't have the money?

23 MR. RUSSELL: As long as they knew
24 that there was no production going on in that plant ---

25 THE COMMISSIONER: Now, the injunction
26 would not stop the third persons from coming in to work.

27 MR. RUSSELL: The injunction wouldn't
28 stop them?

29 THE COMMISSIONER: No. I assume that
30 they would continue to come in. The only thing is that



1 you would have had more than four persons at the gates,
2 but how would you have been able to stick out a year?

3 MR. RUSSELL: Oh, I think that it is
4 as a result of the injunction that the third parties
5 came in.

6 THE COMMISSIONER: No, you said that
7 the third parties were in the first day, they were all
8 prepared to bring them in and you would not say that
9 you were going to prevent them from entering the
10 plant.

11 MR. RUSSELL: Oh, a handful of people
12 like the first day we could have reached them sooner
13 or later, even though they were spread out. Actually
14 the first day people were closer to home.

15 THE COMMISSIONER: They kept coming
16 in, didn't they?

17 MR. RUSSELL: Yes.

18 THE COMMISSIONER: They came and went
19 in in spite of the fact there were four strikers there
20 notifying them what the condition was. They knew
21 everything about it and they went in.

22 MR. RUSSELL: I can't say they knew
23 everything about it. With respect, sir, I don't
24 accept that proposition that they knew everything
25 about it. They knew there was a strike on, they knew
26 the things that the public knew.

27 THE COMMISSIONER: Why, of course,
28 they did.

29 MR. RUSSELL: What the employer had
30 told them and what the true facts were they didn't know.



1 MR. POLLOCK: But you say on your
2 own evidence or whatever this is really called you
3 said that the company needed these people desperately,
4 your members. They couldn't get these people from
5 outside. It took them five months to get these people
6 and they were closed down virtually for two months and
7 had no production. You had accomplished really what
8 the strike sets out to do, close the plant down and
9 you didn't even need any picketing.

10 MR. RUSSELL: Oh, now, come, Mr.
11 Pollock.

12 MR. POLLOCK: You told me that the
13 injunction limited the pickets to six and that that
14 was granted on the first or second day and for two
15 months they still didn't have any production.

16 MR. RUSSELL: All I said about the
17 two months was that for all practical purposes they
18 had little or no production. I stand by that. They
19 were learning, they were teaching these people how
20 to do the job so they had little or no production,
21 but they had a future ahead of them.. That is an
22 entirely different situation than if there had not
23 been any employees in there and they had no hope of
24 production.

25 THE COMMISSIONER: Where did these
26 people live or continue to live after they went to
27 work?

28 MR. RUSSELL: The people who went into
29 the plant?

30 THE COMMISSIONER: Yes.



1 MR. RUSSELL: They lived all over, sir
2 --- Simcoe and so on.

3 THE COMMISSIONER: Were they taken
4 home every night to their homes?

5 MR. RUSSELL: Yes. It was a very
6 expensive operation for the company, but as long as
7 they could see the end someplace they carried it on.
8 Normally the workers who worked there had to provide
9 their own transportation and usually what happened was
10 they went in pools.

11 THE COMMISSIONER: But these people
12 who went there knew that this was a special means and
13 I would not accept it that the people who went in
14 there knew that they were breaking a strike, they were
15 strikebreakers and they were taken to their homes
16 every night, they were taken out. Now, what would
17 have happened if you had had no injunction? Wouldn't
18 they have done exactly the same thing unless you had
19 raised their physical conditions which would result
20 in virtual insurrection?

21 MR. RUSSELL: Let us look at that.
22 You call it "insurrection", but with respect, let us
23 perhaps look at that.

24 THE COMMISSIONER: All I am trying to
25 get at is the fullness of your understanding of the
26 picket line's function.

27 MR. RUSSELL: Well, we said that there
28 were approximately 450 or somewhat more than that in
29 that plant. Now, you call it "insurrection". We would
30 have had without the injunction, either we believe, 450



1 people there to greet these people.

2 THE COMMISSIONER: Yes, that is a
3 good term. What manner would the greeting take?

4 MR. RUSSELL: I can't say precisely,
5 except that their job was to reach them, to speak to
6 them, to explain to them the background, their own
7 problem and why these people should ----

8 THE COMMISSIONER: What would that
9 entail if they were brought in in buses and the gates
10 were opened and they went through?

11 MR. RUSSELL: It would have obliged
12 the buses to stop.

13 THE COMMISSIONER: And you would take
14 charge?

15 MR. RUSSELL: Oh, I would not go that
16 far.

17 THE COMMISSIONER: Of course you would.

18 MR. RUSSELL: If speaking to them means
19 take charge ---

20 THE COMMISSIONER: Do you mean you
21 would have a public meeting in relation to every bus
22 or an accumulation of buses? All I am trying to get at
23 is the reality and you are not stating it.

24 MR. RUSSELL: Well, I have told you
25 as clearly as I know how to state it that that is what
26 they would do. That goes back to our original position
27 in our brief that they have the right to do that.

28 THE COMMISSIONER: Certainly, if you
29 admit that they have the right physically to stop any-
30 body entering that for the purpose of persuading them



1 or holding them there until they are persuaded, then
2 I would say that you are outside of the range of law.

3 MR. RUSSELL: You added the last part,
4 I didn't say that.

5 THE COMMISSIONER: But isn't that the
6 effect in order to keep those people out because they
7 are not going to act rationally, they have an object
8 in going in there? I fancy they were promised very
9 substantial earnings.

10 MR. RUSSELL: Yes.

11 THE COMMISSIONER: That is what they
12 were after and they weren't going to listen to you.
13 They had been told all about this at their homes.

14 MR. RUSSELL: Of course, if you
15 accept that premise ---

16 THE COMMISSIONER: Yes, I do, and I
17 think in other situations you would accept it.

18 MR. RUSSELL: I have seen on more
19 than one occasion situations where employees, workers,
20 given inaccurate information by the employers, came
21 to a plant when it was on strike and were stopped and
22 were spoken to and voluntarily when they found out the
23 true facts left. Nobody hit them or nobody physically
24 touched them.

25 THE COMMISSIONER: Why wouldn't you
26 urge these people at their homes --- go to their
27 homes and explain these things?

28 MR. RUSSELL: Sir, these people in
29 Lanark were spread out in the country. The company
30 would go to little communities. From Simcoe they would



1 go out into little villages around there and they would
2 spread the word by word of mouth. So Mrs. So and So
3 would get five or six women together to come to her
4 kitchen. We couldn't find them. The buses that
5 would take them and the station wagons would drop them
6 off at a point and then they would move out and
7 scatter out to other places. Oh, we found the odd
8 one, we did visit the odd one, but it was insignificant.
9 We were spending more time travelling the county
10 roads trying to find people. It was just an impossible
11 situation.

12 MR. POLLOCK: Do you have any idea
13 what the hourly rate was that was offered to these
14 employees, what terms and conditions they worked under?

15 MR. RUSSELL: I don't think --- well,
16 I can't say that the company gave them more than what
17 was being offered to the others. They may have and in
18 some instances I believe they did. They gave them
19 free transportation, this I know, which the other
20 people had to pay for, and I was told --- they had a
21 cafeteria and so on in the plant ---that they gave them
22 free meals, although I can't say that from my own
23 knowledge.

24 MR. POLLOCK: So the free transportation
25 and free meals were an additional cost borne by the
26 company?

27 MR. RUSSELL: So I understand.

28 MR. POLLOCK: You suggested earlier
29 that this was salvation to the company, it had the
30 prospect of continuing it, it could look at this work



1 force and say, "We are going to beat it because we are
2 going to keep these employees, train them up, and they
3 are going to be able to do the work", and they were
4 going to continue to bus them in and continue to feed
5 them. On the heels of that you say that the company
6 needed the people in the community desperately to work
7 there. So that if the people in the community, your
8 members, didn't work there I don't care how many
9 individuals from the community outside were bussed in
10 it just wasn't economic, the company didn't have the
11 prospect of continuing.

12 MR. RUSSELL: Let us be practical,
13 Mr. Pollock.

14 MR. POLLOCK: I hope we are.

15 MR. RUSSELL: Psychologically the
16 company knew certain things and that gets back to the
17 question of morale that I spoke of before.

18 THE COMMISSIONER: Well, I will
19 assume now that the company acted as detestably as
20 you say --- and it is quite possible in my view that
21 it did, it resorted to every conceivable thing of that
22 nature --- I am not saying so much about that because
23 I take it for granted, but all I am trying to find out
24 is what you thought you had a right to do as a result
25 of that destestable action and I think you virtually
26 say, "We are entitled to do everything that will be
27 effective in some way or other in preventing that
28 production from beginning or being maintained".

29 MR. RUSSELL: You are absolutely
30 right, sir, and if we do anything illegal --- I go this



1 far, we are entitled to do just as you express far
2 better than I could.

3 THE COMMISSIONER: You are qualifying
4 it "If we do nothing illegal".

5 MR. RUSSELL: But I am saying that
6 if I or other people participating in that strike do
7 anything illegal then I am subject to charges and
8 arrest just the same as I am if I do anything illegal
9 and throw a brick through a store window or what have
10 you. Why should we be different?

11 THE COMMISSIONER: Would you rather
12 go to jail as a result of a criminal prosecution than
13 as a result of a violation of an injunction? Do you
14 think there is more criminality --- just a moment
15 because this came up before --- do you think really
16 there is a greater stamp of criminality when you
17 violate an injunction than when you violate a public
18 law which has a punishment attached to it? What is
19 the difference so far as criminality is concerned?

20 MR. RUSSELL: I really don't know.
21 I subscribe to what we say in our brief here and I
22 am taking the words of Mr. Justice McRuer and we
23 quote from them in our brief and I subscribe to that
24 thought.

25 THE COMMISSIONER: It all depends
26 upon the scope you give to his words.

27 MR. RUSSELL: Oh, of course, I
28 appreciate that he was not talking about this subject,
29 but what we say here, I think, is true, that the
30 workers who went to jail --- and I am referring to the



1 Peterborough case here, but it applies to others ----
2 considered that neither the law nor the order of the
3 judge were deserving of respect or observance.

4 THE COMMISSIONER: I read that,
5 but don't call that civil disobedience because it isn't.
6 I will tell you what civil disobedience in the
7 classical conception is. We have the classical example
8 in the case of Socrates and the young people wanted
9 to save him from the laws of Athens. What was his
10 answer? He said, "I will go with you; if I have
11 offended the law I must be punished", and he took the
12 punishment himself. So if you want to be a martyr
13 that way for civil disobedience you must be prepared to
14 say, "Yes, I violated the law. I have broken the law
15 and I must accept the penalty without protest."

16 MR. RUSSELL: I prefer to use as
17 an example rather than Socrates a man like Mahatma
18 Gandhi who found ways of protesting the law and I
19 think was able to arouse situations so that it was
20 changed.

21 THE COMMISSIONER: Certainly, and he
22 accepted the punishment insofar as he violated the
23 law. He was a true civil disobedient person, but you
24 cannot call it civil disobedience by violating the
25 law and then raising Heaven and earth against the
26 acceptance of the punishment.

27 MR. RUSSELL: I am less interested
28 in that side of it. Quite frankly, sir, and with great
29 respect, I think from where you sit the other side of
30 it is much more important too, and that is, as we say



1 here, that a law and an order of a judge has to be
2 deserving of respect. If enough people think it is not
3 deserving of respect, then we are in trouble.

4 THE COMMISSIONER: We are not going to
5 take the opinion of people who are in a state of
6 passion as a rule of life, are we?

7 MR. RUSSELL: No.

8 THE COMMISSIONER: All you have to
9 do in a case of that sort is to oppose that injunction,
10 to bring your witnesses there and show that there is
11 no continuing basis for the apprehension on which it
12 was based. Now, I will go this far: It may be, and
13 I think if it is so it is unfortunate, I think it may
14 be that the existing procedures in the courts ----
15 procedure, mark you, is such that you don't have that
16 opportunity as you gave for evidence and cross-
17 examination. I think that would be the desirable way.
18 I agree with that. I don't think you will assert,
19 because no one else has asserted, that the facts that
20 were shown, even though they were shown on information
21 and belief, have never been shown to have been falsely
22 stated.

23 MR. RUSSELL: In an application for
24 an injunction?

25 THE COMMISSIONER: Yes.

26 MR. RUSSELL: They may not have been
27 shown to be falsely stated, but they were.

28 THE COMMISSIONER: You had an
29 opportunity of showing that. It may not have been
30 effective in strengthening your position, but you could have



1 done it simply to show that this is an improper
2 procedure.

3 MR. RUSSELL: You are probably right,
4 sir, but it becomes so academic and the strike is
5 probably lost by this time.

6 THE COMMISSIONER: It is not
7 academic if it establishes a fact that the so-called
8 affidavits are unreliable.

9 MR. RUSSELL: May I go back to the
10 other question, just to conclude on it, because I think
11 you were talking about something slightly different
12 than I was talking about. You were talking about the
13 people in passion feeling that the law and the order
14 of the judge was of such a nature that it does not
15 deserve respect. I was not referring to them. I am
16 prepared to accept that proposition that I and others
17 who were involved in actions at a given moment might,
18 as a result of our emotions and so on, look at the thing
19 differently. I am referring right now coolly, calmly
20 and so on to the working people of this province,
21 not involved in any particular strike at this moment,
22 viewing the question of injunctions, which means the
23 law, and the way they are handled, and the orders
24 which the judges hand out flowing from all this, both
25 in regard to issuance of an injunction and issuance,
26 in the case of Peterborough and British Columbia, the
27 sentences. I think people are reaching a point --- the
28 working people are --- where there is a danger ---
29 they are satisfied from what I think --- most working
30 people are satisfied, I think, that this injunction



1 procedure in labour disputes is so unfair that they
2 have come to that conclusion, and are now examining
3 other situations that may overflow.

4 THE COMMISSIONER: I can quite
5 believe that because you are an intelligent instructor
6 and you tell those people that they have a right to
7 gather in numbers without limit --- 400, 1,000 --- and
8 prevent the physical access to that property. Now,
9 they believe that is their right. They accept your
10 instruction, and it is not right, and the instruction
11 is unwarranted and it is false.

12 MR. RUSSELL: Well, what you say is
13 not exactly accurate. With respect, sir, having been
14 in a number of strikes ---- I may have done that at
15 one time, but what I tell them now is this: "In my
16 view you have that right, but let us be clear, you
17 are not going to have it and you should know" --- and
18 this is before the strike takes place --- "But if you
19 congregate in front of that gate in such force as to
20 stop people and so on, you are not going to be
21 permitted to do it. The police and an injunction are
22 going to prevent you within a matter of hours."
23 Now, a lot of them don't believe me. They say, "It
24 is a legal strike. I have the right". It is not just
25 the way you place it that we who are trade union
26 leaders and should know better as sort of instructing
27 the people to do that. Yes, I tell them there should
28 be a right, but they have not got it really and that
29 they will find it out.

30 THE COMMISSIONER: I agree it is a



1 question of what ought to be, but I am dealing, and
2 you ought to be dealing with the question of what is.
3 You may advocate, certainly, that is the essence of our
4 democracy, that you have the right to speak as you see
5 fit, and in the realms with which you are acquainted,
6 you have not such a right. But the question is are
7 you going to abuse that to the extent of misleading
8 people to destroy the very foundation that permits you
9 to speak. I am speaking plainly because I am dealing
10 with facts. I have just as much sympathy with working
11 men as you have.

12 MR. RUSSELL: I don't question that.

13 THE COMMISSIONER: I am not alone.

14 Any intelligent person of today understands the
15 difficulties of getting on in this world, where we are
16 putting up standards of living, as we call them, that
17 we have to have this, that and the other thing, and
18 everybody is caught up in this wave of demand. But
19 after all, the security of society which enables you
20 to live as freely as you are, compared with which the
21 life of Croesus, you know, the man who turned everything
22 into gold that he touched, was something that simply
23 disappeared. When we enjoy these things --- and I
24 would be the last one to say you are not entitled to
25 enjoy everything you can get reasonably ---- you have
26 got to have a rule that is applicable to you as well as
27 to everybody else. The golden rule, otherwise stated,
28 is that you must imagine that everybody in this society
29 can do exactly what you are doing in similar situations,
30 and that would create chaos.



1 MR. RUSSELL: Well, sir, you have
2 suggested I am not dealing with facts, but I am going
3 to show you how we do deal with facts. Now, I came
4 here fresh from the picket line. I was out all
5 Saturday and Sunday and yesterday morning. We started
6 a strike. I was at the meeting when the people voted
7 to go on strike. The situation was such there that
8 we knew we did not need --- there was no problem.
9 This was not a Lanark. We knew the company was not
10 prepared, and so on, and we have sent eight or ten
11 people to a gate --- there are five or six gates at
12 this particular plant --- and in preparing the ground
13 we know in every practical way that the situation is
14 such that there is no need --- that each person will
15 participate in the picketing and each person has the
16 right. In this case there are also 450 people
17 employed there who are involved, but we don't need 450
18 people there. But in a very practical way we had to
19 have them in Lanark or what was going to happen did
20 happen. We knew that just as we know we don't have to
21 have them in this plant yesterday. This is the
22 practical side.

23 THE COMMISSIONER: You are prepared
24 to make a fight of it.

25 MR. RUSSELL: Well, nobody goes into
26 a strike to lose.

27 THE COMMISSIONER: I am not
28 criticizing you. I am just trying to find out what
29 your resolution was.

30 MR. POLLOCK: If we can get you to take



1 one step at a time along this line, would you tell us
2 --- nobody goes in to lose: What steps and what degrees
3 do you advocate? What techniques can you use? What
4 techniques ought you to be able to use from the start
5 of one picket at a gate with a sign, what else do you
6 suggest, one step at a time?

7 MR. RUSSELL: Well, I will try to
8 deal with that, Mr. Pollock. Industrial unions are
9 different than craft unions. I am sure the Commissioner
10 understands this very well. In the craft union there
11 is a tradition, and one man can go down here to -- I
12 suppose, the biggest job in this city is the Toronto-
13 Dominion project, and one craft worker can stand there
14 with his sign and all of the various ten, twelve or
15 fifteen crafts working in that building will walk away.
16 Now, there is a reason for this. There is a history
17 to it, but the fundamental reason in my view is that
18 these craft unions have closed shop contracts. They
19 supply to the contractors, or employers, as we call
20 them, their men, and if a man decides he is going to
21 ignore that one picket and go in there regardless, he
22 can find a situation where he is no longer a member
23 of the union or, at least, is not sent out on the jobs
24 by the person responsible. So, there is a reason for
25 it. There is a control. Good or bad, it is there.
26 It is a tradition that has grown up for 60 or 70 or 80
27 years.

28 THE COMMISSIONER: Do you think that
29 cohesion is impossible in an industrial union?

30 MR. RUSSELL: Yes.



1 THE COMMISSIONER: Why?

2 MR. RUSSELL: Industrial unions are
3 completely different. There is no industrial union
4 that I know of that supplies the employer with his
5 workers.

6 THE COMMISSIONER: No, but I am
7 speaking about the cohesion of it, the holding together
8 of the men with the object of serving the entire group.

9 MR. POLLOCK: You are saying, in other
10 words, that this cohesion in the craft union is due
11 not to any altruistic unionism, but the fear that if
12 he does not respect this picket line he will be
13 disciplined by the union, and somebody said the other
14 day, it would be economic death.

15 MR. RUSSELL: I am not saying that
16 sort of thing is not there, but in the final analysis ---
17 because there are individuals; there are individuals
18 who are members of our union because, with respect,
19 we have the Rand formula, who hate the union, and I
20 would be foolish if I did not know there were such,
21 and I am sure there are in the bricklayers' union and
22 the carpenters' union.

23 THE COMMISSIONER: Don't you think
24 craft unions really were the product of the early
25 struggles in England of the men to attain any form of
26 independence of action? Did not that lead directly to
27 the friendly societies? Didn't it really evolve
28 into a sort of social organization as well as an
29 industrial interest?
30



1 MR. RUSSELL: Rights of Labour.

2 THE COMMISSIONER: And this is a
3 sort of residual continuance.

4 MR. RUSSELL: Yes, I think that is
5 a good way to express it. They were both social and
6 political.

7 THE COMMISSIONER: Yes, I think it
8 strikes me that that is really --- there is also in
9 the craft a certain artistry of performance: You are
10 not merely operating a machine --- you are expressing
11 yourself in the quality of the work that you are
12 producing. It seems to me they took an individual
13 pride in that.

14 MR. RUSSELL: I think in many types
15 of crafts that is true. It is a diminishing thing.

16 THE COMMISSIONER: Unfortunately in
17 industrialism you don't get that so much, it is a
18 machine that does the work.

19 MR. RUSSELL: As a matter of fact,
20 you get the opposite and I think that should be
21 understood. Charlie Chaplin didn't exaggerate it in
22 his pictures. Today, as you probably know very well,
23 there are a great number of new illnesses and they
24 don't even understand them. There are doctors and
25 such like who are looking into this and have written
26 about it at length. I don't pretend to understand it,
27 but they flow to a large extent from this repetitive
28 --- it is claimed it flows from this repetitive
29 business. You almost get to hate yourself for having
30 to do this job for eight hours.



1 THE COMMISSIONER: That is why they
2 are introducing such things as background music and
3 things of that sort to relieve the boredom.

4 MR. RUSSELL: That is right. But when
5 you strip it all away in my view, it is that situation
6 that I described, the closed shop, the supplying of
7 labour that is the fundamental difference between
8 craft and industrial unions as far as picket lines
9 are concerned.

10 THE COMMISSIONER: Of course closed
11 shops are not confined to the crafts.

12 MR. RUSSELL: I do not know of any.

13 THE COMMISSIONER: What about Ford?

14 MR. RUSSELL: That is not a closed
15 shop.

16 THE COMMISSIONER: It is in one sense.

17 MR. RUSSELL: I retract that. It is
18 not a closed shop as I used the term. I used closed
19 shop in relation to the employer having to hire
20 through the union. Everyone is in the union in Ford
21 and we have such contracts too.

22 MR. POLLOCK: It is more than a
23 union shop.

24 THE COMMISSIONER: I am talking about
25 a closed shop where you go to the union to get a new
26 employee.

27 MR. RUSSELL: Ford does, you say?

28 THE COMMISSIONER: So I am informed.
29 I may be misinformed.

30 MR. RUSSELL: I don't think so, with



1 respect, but I don't pretend to know. It is new to me.

2 THE COMMISSIONER: I must say I was
3 rather annoyed because I thought it was unnecessary.

4 MR. RUSSELL: I have never heard of
5 it in an industrial establishment, but if it is so, I
6 will check into it.

7 THE COMMISSIONER: Well, Mr. Russell,
8 I think you have given us a good morning. We will
9 retire until a quarter after two.

10
11
12 ---Luncheon adjournment.



1 ---On resuming at 2:15 p.m.

2
3 MR. RUSSELL: I was wondering, Mr.
4 Commissioner, if I might be permitted --- I have had a
5 bit of time to think and review --- to try and deal
6 specifically with two or three matters which I feel
7 now you have raised on several occasions, I believe,
8 and that I have not answered specifically.

9 THE COMMISSIONER: Certainly.

10 MR. RUSSELL: For example, would it
11 be proper if I were to raise what I understand your
12 question to be something like this: If an employer
13 could not --- and I presume you mean by legislation ---
14 bring in outside strikebreakers, then couldn't a
15 union conduct a strike either without pickets
16 altogether or with a bare minimum of pickets? Is this
17 close to it?

18 THE COMMISSIONER: Take it all
19 together, with none.

20 MR. RUSSELL: This has been raised
21 by you, I believe, on several occasions.

22 THE COMMISSIONER: I just wanted your
23 reaction to that.

24 MR. RUSSELL: I have had lunch time
25 to think about it and I have made three points here in
26 reply to that. My first point is this: We have in
27 industry and in our industry maybe more or maybe not
28 to a greater extent than others, a lot of young, new
29 workers. For example, we have this Northern Electric
30 plant which I mentioned to you, and I think the average



1 age is about 25. It is a new plant. These young, new
2 workers many of whom have come right from school and
3 have no background of trade union understanding,
4 tradition, history, et cetera --- in fact, we are
5 taught in our schools that every individual can become
6 the Prime Minister of the country or can become the
7 president of the company. In short, we are taught
8 individualism, we are not taught collectivism, and
9 certainly we are not taught anything about trade
10 unions as such, and therefore, coming into industry
11 new and into the trade union movement new and with all
12 the attractions there are to keep them away, if I
13 may put it that way, from the union meetings it is
14 very difficult for these new, unschooled employees to
15 be reached by the union very quickly. in the event of
16 a strike.

17 The second point is that even where
18 we deal with the older, let us say more skilled
19 employees, the employer has very many ways of bribing
20 --- and I use the word for lack of a better one, but
21 somewhat advisedly --- of bribing specific employees.
22 It can be with money or it may not be. It may be with
23 the hope of becoming a foreman later or it may be
24 on the basis that --- well, we know that in large
25 plants, you yourself mentioned Stelco in Hamilton ---
26 I am mindful of the fact that in the Stelco strike
27 of 1946 a substantial number of the employees were
28 bedded down, stayed in there during the strike.

29 THE COMMISSIONER: You mean they
30 never came out?



1 MR. RUSSELL: They never came out,
2 they lived there, they were supplied with beds and
3 food and so on and there was, if I can use the word
4 broadly, a bribery involved there.

5 MR. POLLOCK: That was an advantage
6 to sit and live in that plant their whole life?

7 MR. RUSSELL: NO, they had ulterior
8 bribes. Those fellows outside where the strike was
9 going to be broken, they would not be there and you
10 would have the better jobs and so on. Let us take a
11 plant of under 100 people. Everybody knows everybody,
12 they know them intimately. In a plant like Westinghouse
13 in Hamilton or Stelco in Hamilton you don't know the
14 people really. You know the little group that you
15 work with. There are whole shifts of hundreds,
16 thousands of people whom you never see and don't even
17 know they work there. So you don't have the intimacy
18 in the big plants today that you would have in small
19 plants like you used to have. This ability of the
20 employer to be able to bribe older employees would
21 have an effect because he is not faced, particularly
22 in the big plants, he is not confronted with meeting
23 his fellow worker head on in the same way as you have
24 it in the smaller plants, but even in the smaller
25 plants it is possible.

26 However, my third point in a sense
27 is the most devastating, I think, and that is this,
28 that even if you had such a law --- and here I will
29 use the Lanark example ---- where you have an employer
30 who is really calculating as to how he is going to



1 break the union, the 200 people that Lanark brought in
2 all he would have to do instead of collecting them
3 after the strike broke out is collect them before and
4 bring them in a week or so ahead of the strike.

5 Under our laws he knows when the strike is going to
6 take place.

7 THE COMMISSIONER: He would have
8 double the number he required in the plant.

9 MR. RUSSELL: Perhaps for a few days.
10 It is cheap.

11 MR. POLLOCK: Then the obvious answer
12 to that is you don't call your strike and let him have
13 this extra work force that he has to pay and put him
14 through all this extra expense.

15 MR. RUSSELL: I don't think that brings
16 about the result. You see, you don't call a strike ---
17 the objective of the employees is not to have a strike.
18 The objective of the employee is to gain usually a
19 material advantage. He is not out to hurt the
20 employer, he is there to gain an advantage --- not to
21 call a strike. That is only an end to a means, as you
22 know well.

23 MR. POLLOCK: A means to an end.

24 MR. RUSSELL: A means to an end, yes.
25 Therefore, I conclude that this proposition is not a
26 practical proposition that is being suggested. If you
27 would like our view of what would be a practical
28 proposition since you have raised the question of
29 legislation --- mind you, we doubt very much that
30 there would be such legislation --- we think that if it



1 was to be handled by legislation it would have to work
2 something like this: That when it was timely for a
3 strike vote to be taken the union would advise the
4 government, the Labour Department would then conduct a
5 strike vote in much the same manner as they conduct a
6 vote for certification ---

7 THE COMMISSIONER: That is something
8 you are introducing yourself.

9 MR. RUSSELL: Yes, I am saying that
10 if you are going to have legislation interfere in
11 this matter, then I believe that either on the basis
12 of that or I am sure the government would never
13 accept a union-conducted strike vote, once the
14 majority voted for a strike, then it would be our
15 submission --- and then only --- the strike would have
16 to be settled by negotiation.. I mean by that that
17 the economics of the situation would have to determine
18 the outcome, not bring in either old workers as
19 scabs or new workers as strikebreakers ---

20 THE COMMISSIONER: It would be an
21 economic determination.

22 MR. RUSSELL: An economic determination.
23 Saying that I realize full well what I am saying, that
24 the advantages are still with the employer.

25 MR. POLLOCK: What does the economic
26 determination mean in your opinion?

27 MR. RUSSELL: It means who can hold
28 out the longest and sooner or later the two parties
29 are going to have to come to that bargaining table and
30 find a basis of settlement. That is what it means.



1 THE COMMISSIONER: And I would say
2 if there is very much intelligence on each side they
3 would come very quickly.

4 MR. RUSSELL: I would hope so. But
5 it is not as easy as it appears because the advantages
6 are still with the employer in this sense, that in
7 our industry, the big bulk of our industry is owned
8 by American parent corporations who have duplicate
9 plants and who do, when we have strikes, ship
10 material in here. But still we would feel that it
11 would be some sort of an economic struggle that we
12 could meet better than the present situation.

13 MR. POLLOCK: What is your objection
14 to allowing the members of your union to go back if
15 they decide that they feel that it has been a long
16 strike, they have been out for a month and they have
17 got special problems at home that the union benefits
18 can't satisfy, they need the job, they want to go back
19 to work, what is the problem in letting them go back
20 on that basis?

21 MR. RUSSELL: Mr. Pollock, I have
22 just outlined that and I didn't take a lot of time,
23 but I just outlined three reasons why they could go
24 back. I went into it to some degree. I am sure you
25 heard what I had to say. These new people that I
26 spoke of don't have any real understanding, can be
27 sucked in, can be drawn in, can be tricked in, can be
28 fooled in, and so on. The older people can be bribed,
29 as I told you, and on top of all that the employer
30 could hire the people in advance, and there are



1 probably other angles to it, but those three come to
2 mind very quickly and then you ask me a question like
3 that. The Commissioner raised the question in the
4 first instance of would we be satisfied ---

5 THE COMMISSIONER: No, I want to
6 know what you have to say about it.

7 MR. RUSSELL: He introduced it.

8 THE COMMISSIONER: I think in many
9 ways there are dead ends to this thing. You are
10 demanding things which you speak about in legislation
11 which I don't think the Legislature in any circumstances
12 would allow.

13 MR. RUSSELL: Neither do I.

14 THE COMMISSIONER: So there you are,
15 all you can do is continue in a situation which is
16 not an extremely satisfactory one where you have the
17 possibility of these outbursts. All I am suggesting
18 this for is to see if we can get some ideas that are
19 not within that straitjacket and which would bring
20 about what you have in mind and at the same time not
21 do any injury of any magnitude to either side because
22 you must recognize this, your interests, your
23 fortune is wrapped up in that plant just as the
24 investors' are.

Y/SS 25 MR. RUSSELL: The workers understand
26 that very well.

27 THE COMMISSIONER: They don't act as
28 if they do in some cases. In the first place, its
29 preservation ought to be assumed as necessary. Its
30 continuance ought to be assumed as necessary because you



1 are looking to go back there, which I think is a
2 legitimate hope. I don't think you really realize the
3 benefit that the statute has given you in that,
4 because the section says, in effect, that you shall
5 remain with the status of employee while the strike
6 continues, assuming that there is no new cause given
7 for dismissal. But the strike itself, in the sense
8 of an absence from work without permission, is not
9 a ground of dismissal. I think that is a very
10 important provision because it recognizes not a legal
11 interest, but certainly something in the nature of a
12 social interest in the striker in that work to which
13 he has committed himself.

14 MR. RUSSELL: Well, I think the
15 Legislature would probably be very deeply interested
16 in your report and I did not want any misunderstanding
17 as far as I was concerned that we felt as some form of
18 solution or compromise to this problem, which I agree
19 is a very difficult problem, that the elimination,
20 I presume by legislation, of outside strikebreakers
21 would resolve the matter. I don't think it will.
22 I don't think it would be helpful at all.

23 THE COMMISSIONER: Well, that is not
24 universally held by labour leaders, because I know
25 one of the principal leaders of this country made a
26 remark to this effect, "If we could only get rid of
27 the strikebreakers". Now, that is significant.

28 MR. RUSSELL: I don't know how deeply
29 he has looked into it.

30 THE COMMISSIONER: I can assure you he



1 is a thinker about labour relations.

2 MR. RUSSELL: I have tried to show
3 you three areas.

4 THE COMMISSIONER: Take the last one.
5 I must say, with all respect for you --- and I have a
6 great deal of respect for you --- I don't think that
7 is a tenable position, to double your staff, to pay
8 twice as much as you must over a period whereas it is
9 suggested that can be stretched out by postponing the
10 strike. He is interested in his profit. Do you think
11 he is going to double the outlay for the period that
12 will injure him?

13 MR. RUSSELL: Yes, I do. I have
14 already tried to show you ---

15 THE COMMISSIONER: That is a question
16 of judgment. It is to the detriment of the interests
17 of people in dividends and to the courage they would
18 exercise bringing that in when it can be continued
19 indefinitely by those whom they look upon as their
20 opponents.

21 MR. RUSSELL: It cannot continue
22 indefinitely. It just can't do that.

23 THE COMMISSIONER: I agree he would
24 not keep them there indefinitely doubling the costs
25 when there was no strike.

26 MR. RUSSELL: And I don't think
27 your people would continue indefinitely. He has ways
28 of provoking your people into action. You must
29 appreciate, sir, that the employer has a wide variety
30 of ways of precipitating action.



1 THE COMMISSIONER: Yes, but he is
2 under the scrutiny of men who are not stupid, men who
3 can see and feel and know these motions are going on,
4 if they are going on. So that, he is not acting in
5 the absence of any oversight. The men who are working
6 for him know when a thing of that sort is underway.
7 They sense it.

8 MR. RUSSELL: I know that you are
9 seeking to find a solution to a very difficult problem,
10 and all of us are, but in the final analysis I don't
11 really believe that there is any real solution to this
12 problem that denies, as our brief points out, the
13 right of an individual worker to participate in a
14 picket line when a legal strike has been called.

15 THE COMMISSIONER: Then, you are
16 attributing to the picket line some of the purpose
17 in achieving the object of your strike, which is to
18 stop the production, stop the work. You achieve that,
19 and yet you want them to go through the experience,
20 the excitable experience of a strike and a picket line.
21 That is a function that may be relevant to the
22 organization itself, to bring about a closer bond
23 between the men and hold them together, but that, to me,
24 is irrelevant in relation to the object of your action.

25 MR. RUSSELL: You notice I said that
26 he should have the right. That does not mean in every
27 strike that you are going to bring out all the pickets.
28 It is not necessary. I said this before and I did not
29 want to repeat myself, but with respect, sir, you are
30 distorting what I am saying. In every strike you don't



1 bring them out, but if it is established that the
2 employer is out to break the strike ---

3 THE COMMISSIONER: If you close it
4 down and shut the doors he is stopped, what more can
5 you do?

6 MR. RUSSELL: He can do certain
7 things to try and get back into production.

8 THE COMMISSIONER: What can he do?

9 MR. RUSSELL: He can do the two things
10 --- he can hire strikebreakers ----

11 THE COMMISSIONER: We are assuming
12 he can't do that.

13 MR. RUSSELL: He can't do it -- there
14 is no need for it.

15 THE COMMISSIONER: But that is what
16 your answers to my suggestion are based on.

17 MR. RUSSELL: I did not finish, sir.
18 I said he can try to break the strike by whatever
19 methods he uses, both by trying to bring in outside
20 strikebreakers or trying to bribe and convert your own
21 people.

22 THE COMMISSIONER: Let us reduce it
23 to this: You cannot bring the outside men in, but you
24 are afraid he will seduce your own workers. Your
25 workers have a new inducement now. When they go into a
26 strike today they don't know how far they will succeed
27 in closing those doors. They hope they will close them.
28 But, there are very many serious means by which that
29 can be prevented. In this case, when they are convinced
30 that all they have to do is to keep together and those



1 doors are closed, why talk about their seduction?

2 MR. RUSSELL: Well, it is not new,
3 what you say.

4 THE COMMISSIONER: I don't care
5 whether it is new or old. I am asking you for the
6 soundness of it.

7 MR. RUSSELL: I am trying to give
8 you the answers to that problem where we have plants
9 of people who have a total working life individually
10 of about three years or four years. These people do
11 not have the experience, and to use your words, they
12 can be seduced.

13 MR. POLLOCK: What kind of experience
14 do you have to have? Nobody has experience with this
15 system.

16 MR. RUSSELL: I don't follow you. You
17 take a worker who is my age and who has been around and
18 who has been in a few strikes and who knows an employer
19 very often says one thing and does the very opposite,
20 he has life behind him. Experience in a factory is a
21 very important thing.

22 MR. POLLOCK: And those who have
23 lost strikes before are reluctant to go on new ones,
24 aren't they?

25 MR. RUSSELL: No, I would not say
26 that. It is not entirely true. In fact, it is not
27 true at all. As individuals, yes, but as a group, I
28 don't think you could say that. There is a tremendous
29 difference between a new, inexperienced worker who,
30 for the reasons I have given again --- we learn nothing



1 about trade unionism in school, nothing about collecti-
2 vism in school. We learn the opposite.

3 THE COMMISSIONER: I know, but it
4 doesn't take very long to pick it up. When you are
5 grown up you take that in your stride. You know
6 exactly what your interest is. I would say that
7 fundamentally it is the interest in holding together,
8 maintaining your unity and your collaboration by virtue
9 of loyalty to the objectives which you set before
10 yourself.

11 MR. RUSSELL: What you are saying, if
12 I may say so, sir, is something that is not said very
13 widely today. You are talking about an interested
14 class and this is almost close to being dirty words
15 today.

16 THE COMMISSIONER: I am not talking
17 about class at all except the class who have a common
18 interest of an economic nature.

19 MR. RUSSELL: Yes, so it is the
20 working class we are talking about. But today, as I
21 have tried to say, there are those who preach really
22 that the working class is going out of existence and
23 there are many others who feel that among the young
24 people in particular, and some not so young, that the
25 possibilities of them climbing out of that working
26 class are fairly good.

27 THE COMMISSIONER: What do you mean by
28 the working class? Is that the man who devotes
29 whatever talents and abilities he has to doing something
30 and is looked upon as being not invaluable to his



1 community?

2 MR. RUSSELL: No, I think today
3 "working class" has a different meaning than it used
4 to have. When industry was very small you have
5 employers who had small factories, you had your employing
6 class and your working class. Today you have your
7 working class and your supervisory class, if I may put
8 it that way.

9 THE COMMISSIONER: What changes have
10 taken place in the so-called working class? They have
11 become operators, pulling this and that and the other
12 lever and requiring skill, requiring an intellectual
13 understanding of the processes which they are controlling,
14 and today they may have the whole fate and destiny of
15 the people in their hands.

16 MR. RUSSELL: Yes, I agree.

17 THE COMMISSIONER: Do you think that
18 that is a derogation from their dignity as individuals?

19 MR. RUSSELL: No.

20 THE COMMISSIONER: Then why make the
21 emphasis upon class?

22 MR. RUSSELL: I think generally
23 speaking they are led to believe that the objective is
24 to be in the supervisory class, and all I am saying, and
25 all I have said, is that your schooling and the new
26 employee who is not versed in the ways of factory life
27 can be "taken in" all that much easier than an older
28 worker, and this comes to the question of them crossing
29 their own picket line, if you will.

30 THE COMMISSIONER: What do you think



1 our whole educational system has been expanded upon
2 -- an assumption that we are leading them in by
3 education into subservience, into ignorance, into
4 lack of acquaintance with things that are buzzing
5 around them in every aspect of their lives? When they
6 are able to vote as they are in Quebec at eighteen,
7 don't you think they know something about these facts
8 of life?

9 MR. RUSSELL: Oh, sure.

10 THE COMMISSIONER: Then why treat them
11 as innocents coming out of a cradle and going into a
12 strike?

13 MR. RUSSELL: I don't treat them as
14 innocents, sir. What I am trying to say is that with
15 industry as big as it is in this country, and with
16 trade unions as big as they are, I think one is entitled
17 to some, let's say a person who goes to secondary school
18 --- high school as we call it --- would have some kind
19 of a course on what it is all about, since most of the
20 people who come out of there are going to go into
21 factories, but they don't, they come out ignorant ---
22 yes, I will use the word "ignorant" of the role of
23 trade unions.

24 THE COMMISSIONER: I am not going to
25 dispute the fact that the education is not producing
26 what it ought to. I think it is because there
27 are too many distractions. Not you personally, but our
28 tendency is to give a consideration to young years that
29 really is not necessary. On the whole, I think you
30 can say our young people today are coming out of the

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1 schools with much more knowledge than they ever did
2 before. They are not wiser, they don't know the
3 significance of things any more, but they have the
4 content of knowledge as we have never had it before.
5 You must remember, although our maturity date is
6 probably extended, nevertheless they are familiar with
7 all of the ideas. I would not be a bit surprised to
8 hear high school boys talk much the same as we have
9 been talking. They have not had the experience to
10 confirm them or to give them a measure of life, but as
11 ideas, they have them. Their homes are educational
12 in that sense. They may have the home of a striker.
13 Do you think they don't understand it then? And the
FN/SE 14 more men there are, the more strikes there are likely to be
15 and the more widespread becomes the acquaintance with
16 them. I can't accept your views that they are any more
17 ignorant today than they have always been and it
18 doesn't take them very long to pick that up.

19 MR. RUSSELL: The only thing I
20 said about education was that our educational system,
21 to the best of my knowledge, teaches the opposite to
22 what trade unionism teaches. It teaches individualism;
23 trade unionism teaches collectivism, if I can
24 put it on that level, that you and your brothers
25 together can go forward together. These are all the
26 slogans of the trade union movement.

27 THE COMMISSIONER: But you have
28 applied the same principles to the community as an
29 entirety. You have to have a certain amount of
30 individualism. You today represent a remarkable example



1 of individualism, but you also have a sense of your
2 solidarity with the community, with workers as the
3 small one, with the community as the larger one, and
4 with humanity as the ultimate group. I am much obliged
5 to you for your three reasons against it because that
6 is exactly what I am seeking and I don't want you
7 to assume at all that I am wedded to any ideas at all.
8 I am just testing out the possibilities of getting out
9 of what I think is a stalemate.

10 MR. RUSSELL: Mindful of the time,
11 I would like to pass to another point that you
12 commented upon. If I understood you correctly again,
13 you commented about civil disobedience, you recall, sir.

14 THE COMMISSIONER: Yes, I spoke to that.

15 MR. RUSSELL: If I could summarize
16 what I understood you to say it is civil disobedience,
17 I have nothing about that, but don't go around crying
18 about it, take your lumps if you are going to exercise
19 civil disobedience.

20 THE COMMISSIONER: That is not what
21 I intended at all. I said if you don't like the law
22 and you make your appeal and you have brought to the
23 last stage a protest and you are justified as a matter
24 of social measure, social action in violating that
25 for the purpose of bringing it to the attention of
26 the public in a striking way then you say, "I have
27 violated this law, I am ready for the punishment",
28 that is all.

29 MR. RUSSELL: I think that is pretty
30 close to what has been done in British Columbia and in



1 Ontario here.

2 THE COMMISSIONER: No, everybody
3 was damning the institutions of the country which
4 pronounced the punishment that should be admitted as
5 proper.

6 MR. RUSSELL: Well, then, to
7 accomplish the end objective I deliberately when you
8 mentioned Socrates again, it seems to me, sir, what
9 you are really saying is that if you are serious about
10 that, you don't like the law and so on, then to
11 accomplish your end objective go fill the jails
12 with the people who are against it, in this case the
13 working people who are against the injunction law,
14 and then the legislators will take note of you, don't
15 cry about it.

16 THE COMMISSIONER: I am afraid I
17 must say you would make a good newspaper man because
18 you can take a very small thing and blow it up very
19 large.

20 MR. RUSSELL: I don't know if you are
21 insulting them, sir.

22 THE COMMISSIONER: I am simply stating
23 a fact.

24 MR. RUSSELL: That was the way I
25 understood and I couldn't see any kind of solution to
26 this thing.

27 THE COMMISSIONER: Oh, no, a man makes
28 of himself a legitimate martyr. That is the truth and
29 sometimes we reach a stage in our social lunacy that
30 calls for that.

1 MR. RUSSELL: Isn't that what Gandhi
2 did? Not only did he do it himself, but he advocated
3 "Fill the jails" and didn't he do that?

4 THE COMMISSIONER: Who did that?

5 MR. RUSSELL: Mahatma Gandhi, they
6 filled the jails to change the law.

7 THE COMMISSIONER: His was a non-
8 action that he promoted, "Don't do anything, sit down".

9 MR. RUSSELL: You sit down in front
10 of a plant that is on strike and they won't tell you
11 you are not doing anything.

12 THE COMMISSIONER: He advocated
13 abstention from work.

14 MR. POLLOCK: Can I lower the level of
15 this discussion to the more mundane problems I would
16 like you to deal with if you could. In those 45 out
17 53 strikes in which the U.E. have been involved in
18 the past years were they all won?

19 MR. RUSSELL: I really can't say. You
20 surprise me with your statistics.

21 MR. FERGUSON: The 45 of the 53
22 I assume you are referring to the eight in which
23 injunctions were issued?

24 MR. POLLOCK: No, there were 53
25 altogether. Eight from 53 leaves 45.

26 MR. RUSSELL: I really couldn't say
27 that.

28 THE COMMISSIONER: Could we get that
29 information?

30 MR. RUSSELL: Yes, sure.



1 MR. POLLOCK: It would be surprising
2 to me and I am sure it would be surprising to you if
3 you won all of them. If you did win 45 out of 53, I
4 think you have got an enviable record.

5 MR. RUSSELL: I don't understand
6 what you are trying to prove.

7 MR. POLLOCK: I am not trying to
8 prove anything. I am trying to find out whether ---
9 you suggest in your brief that the injunction is the
10 weapon that causes the loss of a strike and I want to
11 know what other reasons cause the loss of a strike.

12 MR. RUSSELL: I am glad you put it
13 that way because I don't think we ever suggested that
14 it was the only problem. It certainly is a major
15 problem in our view. There are a multiplicity of
16 things that can cause the loss of a strike. You could
17 even use bad judgment in calling it sometimes. I
18 have seen situations where even in my view it was bad
19 judgment, but that was the will of the people and they
20 were determined.

21 MR. POLLOCK: Bad judgment in what
22 sense?

23 MR. RUSSELL: Perhaps the employer
24 didn't need the production, perhaps he had plenty of
25 stuff stashed away in warehouses and so on. These
26 things happen. As I say, there are a variety of
27 reasons why strikes take place. Every strike is not
28 for economic reasons, although most of them are. They
29 are sometimes where this --- this leads us into, I
30



1 suppose, the questions we have here, this question of
2 compulsory arbitration. There are quite a number or
3 a number anyway of strikes that take place that are
4 not within our labour legislation, so-called wildcat
5 strikes by the employees just getting fed up because
6 it takes a year and sometimes more to get a case to
7 arbitration. Procrastination for a variety of reasons,
8 the employer taking advantage. You see, we are in
9 the unenviable position where you agree in words. Now,
10 words can mean many things but you agree as best you
11 can to a collective agreement. You understand it, the
12 employees understand it to mean certain things and
13 so does the employer. Now, let us take a hypothetical
14 case where the employer deliberately, consciously
15 breaks that, there is no question about it, not a
16 borderline case. All you can do in the face of that
17 under our legislation is take it to arbitration. Well,
18 he can break it to his advantage on some sort of a
19 short-range arrangement and by the time the thing has
20 come to arbitration the happening is long since
21 finished. He could have a speedup on the line or do
22 certain things that were only required, say, for two
23 months. The arbitration hasn't really gotten underway
24 in that period of time. The workers, knowing all this,
25 may walk out and we have devoted, commencing on page
26 11 here, a portion of our brief to this matter because
27 we consider it a cardinal question.

28 THE COMMISSIONER: There is a
29 question I would like to hear from you about. One is
30 that in many of these postponements you consent, labour



1 consents where it is delayed before a conciliator.

2 MR. RUSSELL: No, I think we are
3 at cross-purposes.

4 THE COMMISSIONER: You were speaking
5 of the arbitration under the agreement.

6 MR. RUSSELL: Yes.

7 MR. POLLOCK: Before we get to that,
8 we have not reached page 11 yet in my notes, apart
9 from that type of cause for a strike which may or may
10 not be successful what other causes in this multiplicity
11 of reasons exist? There are not that many strikes,
12 there are 53 in these seven years in your organization.
13 I am sure you are familiar with many of them. They
14 all can't be the ones you lost and they all can't be
15 the ones you had injunctions in. There must have been
16 other ones that won or lost for different reasons.
17 I am trying to develop the reasoning why, what
18 economic force is operating to let you lose a strike.
19 If you pull out your workers and you picket and there
20 is no injunction, why do you lose?

21 MR. RUSSELL: Well, let me give you
22 one example. We go before the workers, as I have done
23 on numerous occasions, and I say to them, "Look, all
24 right, we are going out on strike tomorrow, that is
25 your wish, but I want to tell you, in my view there
26 is going to be a long strike". They say, "You are
27 wrong". One of the longest strikes we ever had in our
28 union, it turned out that the company lost a whole
29 year's business, the strike lasted for a year.

30 MR. POLLOCK: Was that in 1959?



1 MR. RUSSELL: No, it was in 1957, I
2 believe, Ferranti Electric. It was a busy year, 1957,
3 that was the boom year. In the first place it was
4 very difficult to get them to wait for the time limit
5 and I don't mind telling you I was called some
6 unpopular names. However, they did wait for it. They
7 were convinced in their own minds --- and they had
8 a pretty good reason to be, it seemed on paper --- that
9 the company could not stand a strike for two weeks,
10 they were so busy, they were so loaded with work.
11 I think we were out 22 weeks or some very long period
12 of time. It so happens we won that strike, but there
13 are other situations where they have been lost for that
14 reason. The estimation of the workers was, "This will
15 be a two-week strike". It turned out to be a four-
16 month strike. They weren't prepared for it. These
17 errors in judgment are made, particularly, as I have
18 said before, where we are in an industry which is 85%,
19 80%, or something in that neighbourhood owned by parent
20 companies in the United States. They have alternate
21 sources, they can ship things in and although you have
22 said these things, sometimes the workers in their
23 heat don't hear you, if you know what I mean.

24 THE COMMISSIONER: I was wondering if
25 you noticed any difference in the dealings between
26 subsidiaries of American companies and purely Canadian
27 companies.

28 MR. RUSSELL: I certainly have, sir.
29 Not throughout the piece. There are variations there
30



1 too, but the biggest difference that I find personally
2 is that mostly the subsidiaries have to get the
3 approval from across the line.

4 THE COMMISSIONER: In the ultimate
5 results how does it appear?

6 MR. RUSSELL: In the ultimate results?

7 THE COMMISSIONER: Suppose there is,
8 like you say, a compromise come to, is it more generous
9 in the one group than in the other?

10 MR. RUSSELL: No, not to my knowledge.
11 No, the things that stand out --- I am not trying to
12 suggest that Canadian employers are more generous or
13 anything like that, but it does seem to me in my
14 recollection --- and that could be not too accurate ---
15 where there have been the most bitter struggles such
16 as Lanark they have been with American-controlled
17 companies because they are far from the scene of action
18 and they work it out on a drawing board and send it
19 over and that is all there is to it, whereas the other
20 people are here in the flesh that you are dealing with.
21 You may not see the president of a Canadian company,
22 but he is here, he is around.

23 MR. POLLOCK: Do you think that
24 Lanark was a miscalculation as far as timing was
25 concerned, that the company was prepared to endure a
26 strike that lasted five months before they got into
27 full production?

28 MR. RUSSELL: Miscalculation on whose
29 part?

30 MR. POLLOCK: The union's part.



1 MR. RUSSELL: No.

2 MR. POLLOCK: You expected that it
3 would last five months, it was not the situation
4 of a two-week strike?

5 MR. RUSSELL: We didn't know how long
6 it was going to last. That was not our problem in
7 Lanark. That is a different question. Don't confuse
8 Lanark with what I said about five months. Lanark was
9 broken by the injunction, Mr. Pollock, let us be clear.

10 MR. POLLOCK: You keep telling me
11 that and you haven't demonstrated it in one example.
12 You told me that for two months even with the
13 injunction they only employed 20 or 30 people.

14 MR. RUSSELL: No, I never said that.

RT 15 MR. POLLOCK: You said that for two
SS
16 months at least there was no production.

17 MR. RUSSELL: I said with the
18 strikebreakers they brought up --- and let us be
19 clear here, I was never in the plant. I am giving
20 you information that the production was at a low
21 level, but let me tell you they don't operate ---

22 MR. POLLOCK: My note says that for
23 the first two months there was no production and
24 gradually you got some production and eventually
25 after five months they were back to approximately the
26 same size as they were before.

27 MR. RUSSELL: I don't think I said
28 that, and if I did, I was wrong.

29 MR. POLLOCK: All right, tell me what
30 happened.



1 MR. RUSSELL: To the best of my
2 knowledge I can tell you. I think I told you before,
3 that from the beginning they had some strikebreakers
4 lined up and they brought in a few the very first day,
5 and an injunction was issued the very first day.
6 From there on there was a constant buildup, and I
7 think I have used this expression before. If two cars
8 went out the first day there were probably three
9 station wagons the second day, the third day there
10 were four and so on, finally developing into buses
11 from station wagons, and they went out into the
12 countryside in a periphery of 40 miles and hired
13 them and brought the people in back and forth. Now,
14 what was going on in there? They were constantly
15 building it up. I do not have the records, and I
16 don't know exactly what happened, but I do know that
17 they were teaching these people. They were building
18 harnesses, some poor and some good, but they were
19 gradually getting into production. This is basically
20 what happened.

21 THE COMMISSIONER: Was that 1957?

22 MR. RUSSELL: 1964. I think it
23 started in 1963 --- 1964.

24 THE COMMISSIONER: Is this place
25 called Lanark?

26 MR. RUSSELL: No, it is called
27 Dunnville.

28 THE COMMISSIONER: Is there a newspaper
29 there?

30 MR. RUSSELL: Yes, I think there is ---



1 no, I am not sure. The Welland-Port Colborne Tribune
2 is the daily paper that is read there. There may be a
3 weekly in Dunnville, I seem to think there was a
4 weekly.

5 THE COMMISSIONER: Is Dunnville in
6 the Niagara Peninsula?

7 MR. RUSSELL: Yes, it is the home and
8 seat of our former Minister of Finance for the Province
9 of Ontario. We had delegations to him, but no one was
10 ever able to give us any assistance in this situation.
11 It was a hot potato.

12 MR. POLLOCK: Let me move to more
13 comfortable ground for you. Let me ask you the question
14 about the conduct on a picket line. I would be
15 obliged if you would not be prone either to overstate-
16 ment or understatement; if you would tell the
17 Commission what in addition to this communication of
18 information aspect of saying, "We are on a strike.
19 There is a strike on at this plant", which can be
20 communicated by a sign to anyone who can read, what
21 else do you do or ought you to be able to do on a
22 picket line to "convince" these individuals not to cross
23 the line?

24 MR. RUSSELL: I thought I would
25 write that down because of our misunderstanding on the
26 Lanark matter, and then there will be no misunderstanding
27 on this. You would like to know as objectively as
28 possible what else one does on a picket line to
29 convince strikebreakers or scabs not to cross the line.
30 Is that right?



1 MR. POLLOCK: Yes, what they do and
2 what in your conception they ought to do and what
3 ought to be permissible conduct in furtherance of the
4 position of the strike? Put it this way: My basic
5 assumption is that once you have notified these
6 people that there is a strike on and they continue to
7 go into the plant you don't just throw up your hands
8 and say, "Oh, well, we have lost". There must be
9 something else. Will you tell me what those things
10 are?

11 MR. RUSSELL: Well, I would say in
12 the first instance --- it is sometimes that the first
13 is the last --- we attempt to persuade these people
14 as to why they should not go in the plant, and I don't
15 think it is as simple as you make it out to be. You
16 have a sign that says there is a strike on. That
17 speaks for everything.

18 MR. POLLOCK: That is the simplest
19 example of that kind of conduct, that is all I am
20 saying.

21 MR. RUSSELL: Therefore there may be
22 a very complicated situation, and there usually is,
23 quite frankly. The employer usually sends out letters,
24 puts advertisements in the newspapers, and gilds the
25 lily, and we try to reach these people, to speak to
26 them, and it does not just mean a one-minute or a half-
27 a-minute conversation. Now, where the clash arises,
28 of course, is where the employer has reached them and
29 convinced them ---- I am speaking of people who worked
30 in that plant before ---- obviously, there are people



1 who have things in common with those individuals.
2 They work with them and they know them by their first
3 name and so on. Those are the people we try to get
4 to speak to them. Now, what do we try to do? We try
5 speaking to them at the picket line. Well, we usually
6 can't. We send them to their homes.

7 MR. POLLOCK: Why usually can you
8 not?

9 MR. RUSSELL: Well, because usually
10 the employer is well equipped for this sort of thing.
11 This fellow does not come walking along with his lunch
12 pail, "Hiya boys, I am going in". He comes in in a
13 car that has been arranged for by the employer. In
14 all of the cases that I can think of --- these fellows
15 know they are doing something wrong; I am not going
16 to suggest they don't --- it is our opinion they have
17 been misled. Therefore, I said what I did, that we
18 try to reach them and persuade them. In short, the
19 big stick is not the first weapon or the main weapon.
20 Our weapon is to reach the people, because our unions
21 are voluntary. Let us recognize this. With all due
22 respect to what the Commissioner said about Ford ---
23 and I think he was wrong there ---

24 THE COMMISSIONER: About it being a
25 closed shop?

26 MR. RUSSELL: Yes.

27 THE COMMISSIONER: Well, I told you
28 that I was just told that.

29 MR. RUSSELL: Well, I think it is
30



1 wrong. Now, in industrial unions membership is
2 voluntary. Thanks to you we have what is called the
3 Rand Formula in effect in quite a large number of
4 plants, but this is not union membership, as you know
5 so well. This is the payment of dues or its
6 equivalent. Membership in the union is voluntary. The
7 whole concept of industrial unionism is voluntary.
8 So, we have to ---

9 MR. POLLOCK: Except where you have
10 a union shop. Do you have any union shops in the
11 Electrical Workers?

12 MR. RUSSELL: No.

13 MR. POLLOCK: Are there any in your
14 industry?

15 MR. RUSSELL: I think we have one or
16 two where they call it "Maintenance of membership"
17 which is still voluntary, but it has a compulsory
18 factor to it. First you must voluntarily join and then
19 you are retained. But it is insignificant. In total
20 terms of our membership it is 1% or less. Basically
21 it is a voluntary proposition. So, if that is the
22 case --- and it is --- the same thing applies throughout
23 the piece. You are saying our job is to persuade the
24 person to join and to persuade why it is in his best
25 interests. Our job is to persuade the person not to
26 cross the picket line and that what he is doing is
27 wrong if he has already crossed. It sounds simple,
28 but it is a very difficult thing to reach that person.
29 He has been told by all manner of people that he is
30 going to have his head beaten in, so they are supplying



1 him with police protection. He is going to be picked
2 up in a car by probably a foreman --- sometimes the
3 manager himself, depending on the size of the plant.
4 They go in with the windows locked. Sometimes they
5 are instructed that if we come to knock at their door,
6 even though it is Joe who worked beside him before,
7 "Call the police". People have been taken for watching
8 and besetting even though they are just ringing the
9 doorbell.

10 THE COMMISSIONER: You are giving
11 a good description of the condition which I think is
12 a reflection upon our civilization, and it strengthens
13 the desirability, I think, in the independent mind of
14 trying to find some means of avoiding the generation
15 of that. You are coming to one measure pretty soon in
16 the matter of arbitration.

17 MR. RUSSELL: What I wanted to say,
18 is it contrary to common belief --- I don't suggest
19 you gentlemen hold it --- the very last thing, and it
20 is only done out of frustration and in an emotional
21 situation, is to use physical violence. The last
22 thing that anybody wants to do is to use physical
23 violence, and this is only done under certain
24 circumstances.

25 MR. POLLOCK: In what circumstances
26 ought it to be done?

27 MR. RUSSELL: Ought it to be done?

28 MR. POLLOCK: Yes, are you suggesting
29 it is a legitimate method of persuasion? If all others
30 fail, if you and I are in a dispute and you muster your



1 arguments on your side and I muster mine on the other
2 side and I say, "No, I don't agree with you. I am
3 going to do this. I am going to take this course of
4 action. I don't want to talk to you", then you as a
5 last resort --- and it is a last resort in your case,
6 and you can convince me by physical force.

7 MR. RUSSELL: I don't think, Mr.
8 Pollock, that you can beat into anybody's head that
9 he should be a member of the union, if you can't
10 convince him. What really happens --- and I have been
11 in some physical tussles --- what really happens is you
12 never reach that fellow. You get into a tussle more
13 often than not with the police. They are trying to
14 reach him, but things intervene and the whole thing
15 is turned away from what you are really trying to do
16 and you are either into a tussle with the police or
17 someone like the police.

18 THE COMMISSIONER: Look what happened
19 to Walter Reuther himself. You know what happened to
20 him.

21 MR. RUSSELL: I am not sure.

22 MR. POLLOCK: He was beaten up in the
23 Ford dispute.

24 MR. RUSSELL: Oh, yes.

25 THE COMMISSIONER: He was shot at.

26 MR. RUSSELL: Oh, the shooting, yes.

27 THE COMMISSIONER: Can you conceive
28 anything more reprehensible than that as a consequence
29 of a labour dispute?

30 MR. RUSSELL: I have never been clear



1 as to who shot him.

2 THE COMMISSIONER: Well, it wasn't
3 a friend!

4 MR. RUSSELL: I am serious. I have
5 never been clear on that.

6 THE COMMISSIONER: Ordinarily we
7 don't get our amusement by shooting at people.

8 MR. RUSSELL: No, I couldn't agree
9 with you more.

10 MR. POLLOCK: It is no more justifiable
11 than whether it is the employer who is shooting at
12 him or the union man.

13 MR. RUSSELL: I don't think there
14 is very much of this. As you know only too well, you
15 mention Reuther and Ford: Ford in the 1920's used to
16 have a whole army.

17 THE COMMISSIONER: Yes, I agree.

18 MR. RUSSELL: We are in a similar
19 situation.

20 THE COMMISSIONER: You don't say that
21 we have reached the dead end of the absence of force,
22 do you?

23 MR. RUSSELL: I am on the receiving
24 end of it too many times, but all I say is that it
25 seems to work out and does work out that a combination
26 of the employer and the police keep you from reaching
27 the objective that I think would be most desirable,
28 and that is to be able to reach this employee and talk
29 to him this way. It happens, that is all.

30 MR. POLLOCK: Let me work the progression



1 just for the sake of time. If you have put your sign
2 out and the people continue to cross and the next step
3 is you try to talk to the man. If you talk to the man
4 and he continues to cross, what is the next step?
5 You have put your position to him, you have said to
6 him, "In union there is strength" and "Remember the
7 Alamo", or whatever you say at the picket line and,
8 "You have to stick with us and defeat this thing" and
9 then at that stage he keeps going through: I suppose
10 the next stage is you use profanity and you say, "You
11 are a scab" and some other words that I am not going
12 to repeat.

13 MR. RUSSELL: We tell him that these
14 are some of the things that are going to happen and
15 that someone is going to lose their temper, he is
16 taking bread out of their mouths and we tell him the
17 facts of life that sooner or later somebody is going
18 to get mad and bash his head in.

19 MR. POLLOCK: Well, why didn't we
20 say that about half an hour ago and we could have gone
21 on to another point.

22 MR. RUSSELL: I was leading up to it.
23 This is human nature. Has man changed that when some-
24 body takes the bread out of his mouth he doesn't bite
25 their hand if he can?

26 MR. POLLOCK: I just wanted you to say
27 that. I want to know next, the next step after
28 threatening to bash him on the head and he still goes
29 through, whether you would bash him on the head.

30 MR. RUSSELL: I daresay if the



1 opportunity presented itself somebody would. You have
2 to feel keenly about these things. We are saying it
3 dispassionately here. They are feeling it keenly.

4 THE COMMISSIONER: That is true, but
5 look what happened in the case of the Seamen's strike
6 and the Seamen's dispute. Why, it was anarchy and you
7 remember the evidence of the manner in which they
8 handled the various members --- well, brutality, you
9 know, is very possible these days with all our veneer
10 of control.

11 MR. RUSSELL: I am glad you raised
12 that. What I want to say about it, sir, is a little
13 different from you. If you go back to what we say at
14 the very first of our brief which we consider to be
15 rather basic we quote the legislation that every
16 worker shall be free to join a union of his choice
17 and so on. I am sure that when you mention the
18 Seamen's strike you are referring to the latest
19 fracas which happened between the C.M.U. and the S.I.U.

20 THE COMMISSIONER: No, I am speaking
21 of the report made by Mr. Justice Norris.

22 MR. RUSSELL: That is right. But I am
23 thinking in another context. The Seamen had a union
24 of their own at one time and I remember when the
25 S.I.U. came into Canada. Now it depends who wields
26 that club apparently. Those union men were deprived
27 of their union back in the 1940's, they built it, they
28 were deprived of it. If the policeman hits you on the
29 head it is all right under certain circumstances, but
30 if I hit him on the head it is not all right, and yet



1 in the 1940's ----

2 MR. POLLOCK: It is all right with me.

3 MR. RUSSELL: In the 1940's when
4 those seamen had chosen the union of their choice the
5 Canadian Seamen's Union, they were told they couldn't
6 have it, they had their heads beat in for having it,
7 and finally they were deprived of it.

8 THE COMMISSIONER: But you are
9 familiar with what the investigation of the New York
10 docks brought out where it was a reign of terror.

11 MR. RUSSELL: Which are you referring
12 to now?

13 THE COMMISSIONER: I am now referring
14 to the investigation which was held seven or eight
15 years ago through the tyranny of the docks, the tyranny
16 of one of the unions. I am not sure whether it was
17 Curran's union or not.

18 MR. RUSSELL: You are talking about
19 something different, sir. I don't know if it has
20 anything to do with what I am talking about.

21 MR. POLLOCK: Let me recap the
22 situation as I understand it. You are talking about
23 the S.I.U.?

24 MR. RUSSELL: I am talking about the
25 C.S.U., the Canadian Seamen's Union.

26 MR. POLLOCK: Is that the same one
27 that was supposed to be Communist-dominated and they
28 brought in the S.I.U. to defeat the Communist evil
29 and that the cure turned out to be worse than the
30 disease?



1 MR. RUSSELL: You have got it. All
2 I am saying is that these fellows had chosen their
3 union, the judge mentioned the question of a seamen's
4 union, I know he was referring to the more recent date,
5 but I thought it was an opportunity to go back to our
6 page 1 where we say the most fundamental thing is the
7 workers must have the right to the union of their
8 choice and whether it is the policemen who are going to
9 prevent them from having the seamen's union of their
10 choice, or whether it is going to happen through some
11 other means as a result of the employer being able to
12 break a strike, as in Lanark, and they get another
13 union it is all the same to us.

14 THE COMMISSIONER: The only purpose
15 for my mentioning that was this, to show how easy it
16 is for human beings to become brutal, that is all, and
17 that probability is behind the issue of an injunction
18 where it is issued where signs are given of violence
19 on the picket line. You can't write that off at all.
20 That is always a potential in a mass organization.
21 I may be quoting something which you are very familiar
22 with which was interesting to me that the one thing that
23 Gorki said that he feared was a mob, a mass mob.

24 MR. RUSSELL: A mob is undisciplined
25 people, but a large number of people on a picket line
26 is not necessarily a mob.

27 THE COMMISSIONER: It is the first
28 stage towards it.

29 MR. RUSSELL: I don't subscribe to the
30 fact that it has to be, sir.



1 THE COMMISSIONER: It doesn't have
2 to be, but it is inevitable and you have described it
3 very vigorously and very enlighteningly, the different
4 steps that take place. That is exactly what human
5 nature does, it proceeds on that line. We are all
6 subject to that unless we have sharper air brakes in
7 our mechanism than some others.

8 MR. RUSSELL: I daresay, with respect,
9 and I include you and I and everyone else in this room,
10 there is no one above being provoked and that if you
11 had these people and they were not provoked then you
12 would not have violence.

13 MR. POLLOCK: They wouldn't be
14 provoked if you weren't there. I suppose you carry
15 the whole causation principle back to the time they
16 get out of bed in the morning.

17 THE COMMISSIONER: Well, let us see
18 what you have to say about compulsory arbitration.

19 MR. RUSSELL: Yes, I was starting on
20 that before. We started talking about that.

21 THE COMMISSIONER: In the first place,
22 are you satisfied with the kind of tribunals you have
23 now generally, one person representing both interests
24 and a third person presiding?

25 MR. RUSSELL: As opposed to an
26 umpire? I don't know that it makes ---

27 THE COMMISSIONER: Well, there can
28 be --- there are an infinite number of possibilities
29 that you can suggest. You can have it as they have in
30 Australia, arbitration courts, arbitration commissions ---



1 composed of any number of men, three, five, seven, nine,
2 any number you please.

3 MR. RUSSELL: I would like to start
4 from where we start from, sir, and that is that we
5 are opposed to compulsory arbitration per se.

6 MR. POLLOCK: That is a clean
7 position to start from, anyway.

8 MR. RUSSELL: We don't think that
9 it is helpful at all and we do think that it creates
10 disputes that probably would not even be created if it
11 weren't for it.

12 THE COMMISSIONER: There is a good
13 example existing at this day where certain railway
14 organizations after two months or more of negotiations
15 have said, "We are going to arbitration". Why do you
16 suppose they said that?

17 MR. RUSSELL: Well, they said that,
18 if I understand them correctly --- you were referring
19 to those unions?

20 THE COMMISSIONER: Yes.

21 MR. RUSSELL: Because they knew what
22 they were going to get and it was not enough and so
23 they figured, well, maybe there was something more
24 there. They had nothing to lose by it in that
25 particular, peculiar set of circumstances. That is not
26 normal arbitration as we know it.

27 THE COMMISSIONER: If your statement
28 is right I must say that it is not anything that can be
29 called very admirable in the negotiation of an economic
30



1 question. It is just like horse trading or something
2 of that sort and that may be the proper interpretation
3 of it.

4 MR. RUSSELL: That is the way I
5 understood that, but what we are talking about is
6 something a little different. We are talking about,
7 in our brief, that during the length of a contract
8 where matters of difference come up between the
9 employer and the union as to the interpretation of the
10 contract it should not be compulsory that it be
11 subject to arbitration but rather it should be by
12 arbitration if the grieving party requests it.

13 THE COMMISSIONER: How else would it
14 be settled?

15 MR. RUSSELL: Well, in the United
16 States and in Great Britain unless it is by consent
17 they don't have compulsory arbitration, as we point out
18 in our brief, and as has been pointed out before.

19 THE COMMISSIONER: You mean they
20 strike?

21 MR. RUSSELL: The peculiar part is
22 that they don't very often.

23 THE COMMISSIONER: But that is open
24 to them.

25 MR. RUSSELL: Yes, but because it is
26 open they find a solution in more times than none.

27 THE COMMISSIONER: Do you think they
28 are so irrational they can't find a solution even
29 though that isn't open to them? You are giving some
30 people such a poor reputation that I am astonished.



1 MR. RUSSELL: What happens frequently,
2 too frequently, is that once the right to strike has
3 been taken away the employer now doesn't have to look
4 too seriously at the problem. He can brush it off and
5 too often does, and say, "Okay, let us all go to
6 arbitration, we have provision for that". Now, that
7 is a long procedure and not a very satisfactory one,
8 anyway, because very often even if he loses at least
9 he has had the benefit of the thing going on for five,
10 six, eight, ten, twelve months. He is in pretty good
11 shape.

12 If the employer knows, as they do
13 in the United States in most instances and in Britain ---

14 MR. POLLOCK: Let me stop you there
15 when you say, "most". Do you have any idea what
16 proportion of United States contracts have a no-strike
17 clause written into them?

18 MR. RUSSELL: No.

19 MR. POLLOCK: As a factor you say
20 that there haven't been many strikes. There is a very
21 large and overwhelming majority of collective agreements
22 in the United States which have a clause that there
23 shall be no strike during the term of the agreement.

24 MR. RUSSELL: You may be right, but
25 it at least is something they did between the parties,
26 they worked it out and they agreed upon it and nobody
27 sat there with a hammer and said, "You have to have it".
28 I think there is a vast difference.

29 If one does do something by consent,
30 it is quite different. We are up against an entirely



1 different situation where we are told that we must have
2 and are deemed to have a compulsory arbitration
3 provision in the agreement whether it is there or not.

4 MR. POLLOCK: Don't you think that
5 was put in at the request of the union, that compulsory
6 arbitration provision was put in at an early stage to
7 compel the employer to bargain, to negotiate grievances?

8 MR. RUSSELL: I don't think so at all.
9 I think it was put in along with the whole no-strike
10 arrangement, if my memory serves me right, in 1944, when
11 the Ontario Act came out and before that --- and I
12 think our brief refers to this --- it was copied from
13 P.C. 10-03 which was a wartime piece of legislation.
14 Our union and most other unions took a voluntary no-
15 strike position so nobody complained about it, but when
16 the war was over and it carried on, then it was a
17 different thing.

18 THE COMMISSIONER: Really what it
19 comes down to is this, that you value the strike and
20 its accompaniments as you have described them as a
21 tremendous weapon, you are not willing to leave it to
22 the arbitrament of reasonable and reasoned consideration
23 by which many other groups of the community are bound.
24 Take, for instance, the members of the defence forces
25 who are sent to the battleground to run the risk of
26 being shot any minute, what do you think about a strike
27 there? What do you think about arbitration in their
28 case? As I have said before, we are all under
29 compulsions in every feature of our life and the mere
30 answer that you don't like anything imposed upon you



1 like arbitration contradicts the very existence in a
2 society. The laws are imposed on you.

RY/SS3 MR. RUSSELL: I am not saying that.

4 THE COMMISSIONER: I think you are.

5 MR. RUSSELL: No, sir. What I am
6 saying is ---- and this is the way it works in life ---
7 to my knowledge and experience, that we sit down with
8 the employer and we agree on a collective agreement.
9 Now, he can with impunity violate that, and does in
10 some instances, with complete impunity.

11 THE COMMISSIONER: Now, give me an
12 example.

13 MR. RUSSELL: All right.

14 THE COMMISSIONER: "With impunity"
15 means without liability for punishment.

16 MR. RUSSELL: Well, I won't say
17 without completely, but it is so insignificant.

18 MR. POLLOCK: You damage your
19 argument if you overstate it. Just give us an
20 example.

21 MR. RUSSELL: All right. An employer,
22 contrary to the collective agreement, changes the rate
23 on the job and changes the technological method. He
24 may or may not discuss this with the union as provided
25 for, if there is a provision for it.

26 THE COMMISSIONER: If there is, yes,
27 but you assume from the beginning he was violating
28 the agreement.

29 MR. RUSSELL: If there is a provision
30 for discussing it with the union, and we assume he does



1 so, but they cannot come to agreement. So, he puts
2 in a set of conditions which leave the employee in a
3 worse condition than he was in formerly.

4 THE COMMISSIONER: Well, give me an
5 example.

6 MR. RUSSELL: Either by way of lower
7 wages ---

8 THE COMMISSIONER: He can't change
9 wages.

10 MR. RUSSELL: Oh, yes, he ends up
11 with either lower take-home pay or with having to work
12 much faster and much harder for perhaps the same pay.

13 THE COMMISSIONER: Isn't that one
14 subject for which provision is made for arbitration?

15 MR. RUSSELL: Sure, there is provision
16 for arbitration.

17 THE COMMISSIONER: Why isn't that
18 done?

19 MR. RUSSELL: Every aspect of the
20 collective agreement has arbitration.

21 THE COMMISSIONER: But conditions
22 have come up which were not foreseen, and in that case
23 I think you have a good arguing point that some
24 provision should be made, because as it is today, so I
25 am informed, anything that is not specifically covered
26 is looked upon as being within management's control.

27 MR. RUSSELL: You are dealing with
28 the whole question of what they call "residual rights",
29 and there are a lot of things that happen, and if the
30 collective agreement, which is usually quite a small



1 document, and can only deal with certain things ---

2 THE COMMISSIONER: It can deal with
3 as many things as the parties wish it to deal with.

4 MR. RUSSELL: Even if you wanted it
5 to I don't think you could anticipate a set of
6 conditions that can arise.

7 THE COMMISSIONER: That may be so.

8 MR. RUSSELL: And management's
9 position consistently is that if it is not in the
10 collective agreement specifically, then it is none of
11 your business, so to speak.

12 THE COMMISSIONER: Then why not
13 arbitrate that?

14 MR. RUSSELL: We very often are not
15 permitted to because the employer will argue it is not
16 arbitrable.

17 THE COMMISSIONER: I know, but we are
18 talking here about possible provisions for legislation
19 or something of that sort. Why not deal with that in
20 a rational way by saying, "Yes, we will arbitrate this
21 thing before a proper board. We will not accept your
22 ipse dixit that this is yours and exclusively yours
23 and we must accept it."

24 MR. RUSSELL: If one accepts the
25 premise that arbitration is the correct road ahead,
26 then I suppose that would be the way to handle that.
27 Our union starts from the position that both the
28 employer and the workers' representatives are both
29 intelligent enough people that if there was no other
30 way they would come to a common understanding if they



1 sat down and were faced head on with the problems, and
2 they had no other way of resolving it.

3 THE COMMISSIONER: Let us get to a
4 contract that has the provisions for arbitration and
5 that is in the contract and then something new turns
6 up: Why not take that subject to arbitration as well?

7 MR. RUSSELL: I say, sir, I ----

8 THE COMMISSIONER: You can say yes
9 or no, I don't care, but it seems to me to be
10 sensible to say that we ought not to allow that to be
11 in the arbitrary ---

12 MR. RUSSELL: Definitely it should
13 not, but, where should it be?

14 THE COMMISSIONER: I would say it
15 should be in arbitration.

16 MR. RUSSELL: That is an opinion, sir,
17 but I would say it is something the employer and the
18 employees through the union should sit down and
19 resolve.

20 MR. POLLOCK: Let me give you a
21 simple example of a grievance: Somebody has been
22 discharged and it is an unlawful discharge, he is
23 discharged for no reason at all: The agreements go
24 through and he gets reinstated and gets his back pay
25 and nobody loses anything except the employer.

26 MR. RUSSELL: That is right.

27 MR. POLLOCK: What is wrong with
28 arbitration in those circumstances?

29 MR. RUSSELL: Usually, you see, in those
30 circumstances you have a special provision in the



1 contract. I suppose there is not too much wrong with
2 it in the particular situation, because that is the
3 simplest type of thing.

4 MR. POLLOCK: That is right. I think
5 in your ordinary dealings in life, apart from the
6 collective bargaining agreements and apart from labour
7 relations, an interpretation of the contract you have
8 with a man who paints yourhouse, you don't use physical
9 force on him to compel him to come to an interpretation
10 of it --- you take it to a court, if you want to. If
11 you want to enforce your rights, you sue him, or he
12 sues you, or whatever it is, for the interpretation
13 of that agreement. So, if the interpretation of that
14 agreement between you and your house painter can be
15 taken to the court, why can't the interpretation ----
16 I am not talking about the question the Commissioner
17 was raising, about a technological change --- I am
18 asking you on interpretation whether this means what
19 it says or whether it means something different. Why
20 can't that be arbitrated?

21 MR. RUSSELL: As I have already
22 indicated, it can be. One of the problems is our
23 machinery is such that it is very slow, very frustrating.
24 I am speaking of life now --- actually what happens.
25 There is nothing theoretical about this.

26 MR. POLLOCK: Why is it slow?

27 MR. RUSSELL: Well, the reasons it is
28 slow are that there appear to be very few chairmen,
29 and those who act in this capacity are very busy men.
30 They are acting in at least two or three roles: They



1 are chairmen of arbitration boards, frequently chairmen
2 of conciliation boards, and very often they have a
3 bench --- they are judges on the side.

4 MR. POLLOCK: Assuming you have
5 adequate arbitrators, a corps of arbitrators to choose
6 from, that would eliminate the delay, wouldn't it?

7 MR. RUSSELL: It would be helpful.
8 All those problems that flow from the frustrations
9 that now come about, namely, as a result of delay ----
10 it would eliminate that aspect.

11 MR. POLLOCK: That is not an objection
12 to the arbitration.

13 MR. RUSSELL: No, it is the way it
14 works.

15 MR. POLLOCK: It is an objection to
16 the practice of the actual operation of that machine.
17 It is not an objection to the machine itself.

18 MR. RUSSELL: No, except it has
19 been that way for 20 years.

20 MR. POLLOCK: Well, you started out
21 with a blank basic objection and now you have conceded
22 several of the points --- at least, you are moving
23 along the line, and I want to narrow it down to where
24 your objection stops, or where it really starts,
25 whichever way you look at it.

26 MR. RUSSELL: It is our submission,
27 and we verily believe, that there is a better method
28 than arbitration. You are starting from one premise
29 and I am starting from a different one.

30 MR. POLLOCK: What is that better



1 method?

2 MR. RUSSELL: Collective bargaining.

3 THE COMMISSIONER: But you do come to
4 a point where you can't conclude -- what is happening
5 in England where they have left almost everything to
6 be done by collective bargaining? They find it necessary
7 for the salvation of that country to fix wages, fix
8 prices and, in promise, fixing dividends. You come to
9 the point where you do not settle things by collective
10 bargaining. Let me point out this too: You know, you
11 get certain phases, not only in this, but in other
12 matters of controversy, which become obsessive.
13 Arbitration is one of them. You are afraid of it.
14 The Australian people who are, apparently --- I gather
15 this --- they are probably the most unionized people
16 on the face of the earth, and they have the most
17 arbitration and law, compulsory arbitration. They
18 criticize it, they damn it, but they have not changed
19 it for 65 years.

20 MR. RUSSELL: Could I say this, sir,
21 that --- I don't know what your time schedule is.

22 THE COMMISSIONER: There are a few
23 others want to say something?

24 MR. RUSSELL: Yes, there are three
25 members of my delegation, one a Canadian General
26 Electric worker, one a Canadian Westinghouse worker,
27 and another who works in Hamilton in a composite
28 local of our union, and I know they would like to
29 say something to you.

30 THE COMMISSIONER: Well, they are quite

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1 free. I will be very happy to hear them.

2 MR. RUSSELL: Before we run out of
3 time I thought perhaps they would come up here.

4 On my left is Mr. William Repka of
5 our Local No. 516, Canadian General Electric in Toronto.

6 On my immediate right is Mr. John
7 Farrell, member of Local 520, and works at United
8 Carr Fastener Company in Hamilton.

9 On his right is Mr. William Swack,
10 Local 504, Canadian Westinghouse Company in Hamilton.

11 THE COMMISSIONER: Mr. Swack, what
12 have you got to say?

13 MR. SWACK: Mr. Commissioner, you
14 speak of the law in sort of an abstract sense. You
15 give me the impression the law is sort of a big
16 shining light. Now, these laws are man-made.

17 THE COMMISSIONER: That is due to the
18 receptivity of you, but not anything to do with me.

19 MR. SWACK: The laws are basically
20 man-made.

21 THE COMMISSIONER: Of course it is,
22 I understand that quite well.

23 MR. SWACK: But these particular
24 laws are there to protect the economic position of the
25 employers.

26 THE COMMISSIONER: Of course, the only
27 question is where do you draw the line? We are all
28 governed by a regulation of some sort.

29 MR. SWACK: Governed or dominated?

30 THE COMMISSIONER: If you say



1 "dominated", you don't change the actuality of it.
2 We must live. If we live in a community we must have
3 regulations. Do you think we could get along with
4 anarchy? I admit that laws are not perfect. Why?
5 Did you ever see a perfect individual?

6 MR. SWACK: We are not striving for
7 perfection. We are striving for justice.

8 THE COMMISSIONER: What do you have
9 to say about this matter of labour and how are we to
10 resolve what you consider to be states of unfairness,
11 emotions of unfairness, actions of unfairness?

12 MR. SWACK: Basically the legalized
13 form of strikebreaking.

14 THE COMMISSIONER: Is there anything
15 you want to add to that?

16 MR. SWACK: No, not too much, but
17 there is one point you did make that you said you were
18 a working man.

19 THE COMMISSIONER: I think so, yes.

20 MR. SWACK: I couldn't agree with
21 that.

22 THE COMMISSIONER: Maybe you can't,
23 but that doesn't affect the fact as to whether I am or
24 not. How do you describe a working man?

25 MR. SWACK: I would say to you that
26 by your social position you are a capitalist.

27 THE COMMISSIONER: That is a new one
28 to me.

29 MR. SWACK: Well, you mentioned the
30 word yourself.



/FN/SS1

THE COMMISSIONER: What do you mean
by "capitalist"?

MR. SWACK:: A person who exploits
labour.

THE COMMISSIONER: What exploitation
of labour do you think I have been guilty of?

MR. SWACK: That I did not say, I
said by your social condition.

THE COMMISSIONER: You said the
exploitation of labour. Let us deal with one question
at a time. Now, what is the exploitation you charge
against me?

MR. POLLOCK: Unless it is me.

THE COMMISSIONER: You are much more
of a boss in this life than I am.

MR. SWACK: How do you mean that?

THE COMMISSIONER: Because you have
men beneath you, subject to your orders.

MR. SWACK: I don't give orders to
anybody.

THE COMMISSIONER: No one at all,
you are in the lowest level?

MR. SWACK: I am just an ordinary
worker.

THE COMMISSIONER: What about your
family?

MR. SWACK: I don't boss them.

THE COMMISSIONER: You don't? They
boss you?

MR. SWACK: No, we get along together.



1 THE COMMISSIONER: Mr. Farrell, do
2 you have anything to add?

3 MR. FARRELL: Yes, Mr. Rand, you
4 mentioned before the point that once the strike has
5 been taken and the people are out of the plant and the
6 doors are closed after the people have vacated the
7 plant, they have gone into the procedure of a legal
8 strike, what is the reason for the strikers you asked,
9 what would be the reason for wanting to be there now
10 that the plant is closed and they have achieved their
11 so-called objective, you might say, in closing the
12 plant and voicing their opinion, their own individual
13 opinions about their feelings towards management and
14 management towards them. Well, myself, speaking as a
15 working man such as yourself or anybody else, I don't
16 think everybody thinks exactly alike. We are
17 individuals.

18 THE COMMISSIONER: Of course we are.

19 MR. FARRELL: I think this is what
20 makes the world go round. Now, a person who thinks on
21 his own --- and I think all of us do to a certain
22 degree, some are a little more unique --- but when you
23 have so many different individuals who work in the
24 plant --- and mind you, you have to picture they all
25 think differently, they are maybe in a so-called line
26 to a certain degree the same, but they all have their
27 own little differences.

28 THE COMMISSIONER: Within limits, yes.

29 MR. FARRELL: Within limits, yes, of
30 course. Now, you get all these people who think within



1 the limits but differently and you get all the
2 differences and throw them together and you put them
3 outside the plant and they get on the picket line ---
4 well, first of all the question in point here is why
5 are they going on the picket line because the plant
6 is closed. Maybe they feel that they just walk through
7 that door that they haven't given their full feeling
8 to the boss or the management or the manager of the
9 plant or the works manager or whatever you want to call
10 him, the president --- they have got something in their
11 hearts, they want to get it out. Do you follow what I
12 am trying to say?

13 THE COMMISSIONER: Yes, I follow.

14 MR. FARRELL: They are trying to get
15 it out as individuals in their little unique ways of
16 thinking. They don't all do it the same, so they feel
17 when they get together on the picket line their
18 morale is there and then when they are all together
19 they have this morale and you know there is nothing
20 worse yourself than --- take a football team or a
21 hockey team, what happens to them when the morale is
22 gone?

23 MR. POLLOCK: Esprit de corps is
24 what you are talking about.

25 MR. FARRELL: Yes. They hit the
26 bottom and nobody wants to hit the bottom in any
27 league, put it that way.

28 THE COMMISSIONER: Then you want an
29 opportunity to ----

30 MR. FARRELL: As my personal way I



1 think myself I want my individual right to stand out on
2 the sidewalk and express my inner feelings. Now, you
3 might say --- this question was brought up also, too ---
4 that possibly I want to have this feeling out on the
5 sidewalk, maybe I could be a violent person and end up
6 in violence. I am a married man with children, I don't
7 think I would want to stand up anywhere under any
8 circumstances and cause violence so that I would end
9 up in jail.

10 THE COMMISSIONER: I am sure of that,
11 yes.

12 MR. FARRELL: It is not very good,
13 is it? So therefore my sole reason --- and I think
14 the sole reason of most working people basically who
15 work in the plant is that they want to get out there
16 and they want to express their opinions and when they
17 are together sometimes their opinions come more into
18 the open, it is clearer, not necessarily for violence.
19 I don't cater to violence.

20 THE COMMISSIONER: What you really
21 say is this, "After we have accomplished our purpose
22 we want to let the whole quantity of steam off that
23 we have generated in the last six months and we want
24 to do it in a certain way and other people have got
25 to submit to that however objectionable it may be to
26 passers-by, the people crossing the street." You may
27 create a nuisance by blocking the street, but it means
28 you are going to blow off by getting rid of your
29 suppressed feelings in another form ---- go home and
30 dance with joy to think that you have achieved your



1 objective. The only thing is it is futile, it is
2 superfluous. You have accomplished your main object.
3 Why not go home?

4 MR. FARRELL: We have basically
5 accomplished our main object.

6 THE COMMISSIONER: Yes.

7 MR. FARRELL: But as I just stated
8 a moment ago, we are all individuals and we all think
9 differently now. As long as an individual is not
10 flagrantly flouting the law and insisting on doing it
11 openly and making a general nuisance of himself, he ---

12 THE COMMISSIONER: We have means of
13 dealing with that.

14 MR. FARRELL: He should have the
15 right to stand out there.

16 THE COMMISSIONER: No, he hasn't the
17 right. He has the right to use the street for the
18 proper purpose of the street. He has the right to
19 speak to people, but he hasn't the right to collect
20 a meeting to hear him express, as he does in Hyde
21 Park in London. Hyde Park is a place fitted for that.
22 When they want to release themselves in words and one
23 thing and another they go to Hyde Park, but they don't
24 take the streets of the city where people are busy
25 passing and repassing.

26 MR. FARRELL: We have laws, Mr.
27 Rand, we have laws and we have community laws. Each
28 community will differ to a degree in their own
29 community in their laws in the city. Generally speaking,
30 the police will come around. If people are out on the



1 picket line, the police will come down and as long as
2 you conduct yourself in an orderly manner, in a
3 gentlemanly way or womanly way, a ladylike manner, if
4 there are ladies there, and you walk around in a steady
5 fashion and not obstructing the people who are walking
6 by there, what is the problem here?

7 THE COMMISSIONER: I quite agree
8 when you have any complaint which that might influence,
9 yes, but my answer is that it is unnecessary in this
10 case. The only necessity, and you agree, is to keep
11 up the spirits of the strikers. Well, I don't think
12 they have any business to occupy the public streets to
13 keep up their own feelings.

14 MR. FARRELL: If they are not
15 breaking the law, your honour, what is wrong with it?

16 THE COMMISSIONER: For this reason
17 that the streets were not opened for that particular
18 purpose to give them a chance to blow off.

19 MR. FARRELL: Don't you like to see
20 people with high spirits?

21 THE COMMISSIONER: Yes, in the proper
22 place, on the cricket field, on the baseball field,
23 on the football field or in the dance hall, yes, of
24 course.

25 MR. FARRELL: I would be only too
26 willing to venture this point, your honour, that on
27 football fields and baseball fields there are many,
28 many more times more problems of violence in these
29 situations than you actually get out on the picket
30 lines.

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1 You haven't looked at many hockey games. I go to them
2 all.

3 THE COMMISSIONER: My answer to that,
4 if it needs an answer, is that it is wholly unnecessary.
5 Let people learn to blow off steam in a less
6 objectionable manner, that is all.

7 MR. FARRELL: May I say something
8 else?

9 THE COMMISSIONER: Certainly.

10 MR. FARRELL: I am a steward in the
11 shop where I work and different times I get called in
12 on problems with the works manager dealing with
13 individuals in the shop. Under certain instances
14 things happen with these fellows that I have to go in
15 and deal with or deal for. He will cite different
16 things that these fellows have done during the course
17 of the day's work. Now, he could be right. Possibly
18 I was not there when a certain thing took place and
19 he could be right, but he might have got it third or
20 fourth hand all the way down the line. It is possible,
21 but there are people out there to do this job so that
22 he can do his job.

23 Last week, for instance, I had this
24 particular problem and this is it, and I said to him,
25 "The only way I can tackle it, the only basis I can
26 get to it is you, Mr. Spriggs, you have been out of the
27 shop for a long time, you are working in the office,
28 you are management, you represent management, you are
29 management. You have been off the job a long time".
30 Apparently this man came up through the ranks at one



1 time or another. I said, "Mr. Spriggs, you have lost
2 touch with working men, men who work with their hands".
3 I said, "I mean men who work in the shop and work with
4 their hands. You have lost touch, you don't have the
5 same sense any more. I would like to give you an
6 offer: Why don't you come out and work with me for one
7 month in the shop? You will probably decline, but I
8 am going to give you the offer anyway." I said, "I
9 will do all the slugging, all the work. I would just
10 love to have you there all the time to give you a perfect
11 insight into what goes on in that plant". He declined.
12 But do you think that was a bad point of view?

13 THE COMMISSIONER: When you say he
14 came up from the ranks, that is what he is supposed to
15 have acquired, sensibility to the actual conditions
16 existing on the job, but you know as well as I do that
17 sometimes when men are made foremen they suddenly
18 take an obsession of confidence in themselves and they
19 lose sight of the fact that they were once workers
20 and their judgment then may be poor, the judgment of
21 other men may be quite inadequate and you do have
22 discord and one thing and another, but we have got to
23 become used to that. We have discord in everything.
24 Don't ever imagine for a moment that all is sweet
25 reasonableness in the association of lawyers and any
26 other professional men. They all have their quarrels
27 and opinions of this person and that person just like
28 the whole mass of community.

29 MR. FARRELL: I realize this, and
30 it is going to continue and maybe it will get worse, I



1 don't know. None of us really know the answer that
2 far in the future on anything like this, but my only
3 reason and my only point for bringing this up is that
4 I realize you two gentlemen here were appointed to do
5 a job and you are trying to get at it the best way
6 you can or trying to get the answers. I realize this
7 is what all the questions are about.

8 THE COMMISSIONER: Of course they are.

9 MR. FARRELL: And sometimes questions
10 can be a little perturbing, but this far you dig, you
11 have to sort of prod people along the best way you can
12 in order to get some of these answers, but when I
13 stated this situation that I had in the shop last week,
14 with all respect to you fellows, maybe I should pass
15 my opinion of what Mr. Spriggs should have done on to
16 you.

17 THE COMMISSIONER: We are quite
18 willing to recognize that as exhibiting some of the
19 conditions that occur in any association of men working
20 together. They are all different, as you say. They
21 have their differences, but the point is that 90% of
22 the differences have got to be submerged. You have
23 got to forget. That is the law of life.

24 MR. FARRELL: I accept this, I have
25 to accept it if I am going to get along in this world.

26 THE COMMISSIONER: Yes, you do.

27 MR. FARRELL: It is part of society,
28 I realize this, but sometimes to really get at the meat
29 of the problem --- this is a real problem here.

30 THE COMMISSIONER: I agree.



1 MR. FARRELL: He could go on for hours
2 and hours and I could too the way I am talking here
3 because I feel so strongly about this situation.

4 THE COMMISSIONER: But you must
5 remember that other people with the other point of
6 view feel just as keenly.

7 MR. FARRELL: I am glad you mention
8 that because the other point of view would be
9 management and maybe it would be a good idea to have
10 management on that side of the room and the workers
11 on that side and without argument ---

12 MR. POLLOCK: It might be Mr. Repka
13 wants to say something now.

14 THE COMMISSIONER: Thank you, those
15 are the expressions that I must say I appreciate
16 because it gives anybody a better insight into the
17 emotionalism that takes place in a plant.

18 MR. REPKA: Mr. Commissioner, I was
19 interested, you said that you were a working man. I
20 believe that. I have worked for General Electric for
21 nearly a quarter of a century and I think that there
22 are different kinds of work and I believe your work
23 should be and has been in the past with the Rand
24 Formula and other instances, I think you have done
25 some good for the working man and I hope you will do
26 that again. in this instance.

27 I was interested in your statement
28 that you were very much interested in the working man
29 as Mr. Russell was, but that you believe that there
30 are rules that have to be laid down for labour-management



1 relations. Now, I think in our submission one of the
2 rules, as I understand it, is that according to Section
3 3 of the Ontario Labour Relations Act every person is
4 free to join a trade union of his own choice and to
5 participate in their lawful activities.

RY/SS 6 I believe that is a January, 1967
7 rule, and I think it is a good rule.

8 I was also interested in the section
9 of our brief where it quotes the sentences from Mr.
10 McRuer's speech:

11 "What I am concerned with is
12 that lawyers and judges too
13 often regard 'order' as a
14 shield for the protection of
15 privilege through laws that
16 have prevailed in another
17 society and procedures that
18 became incompatible with
19 modern day living."

20 "If there is a decline in
21 respect for laws, -- legislators,
22 lawyers, and judges have
23 failed to develop just laws
24 and just procedures appropriate
25 to the social changes brought
26 about by the scientific
27 developments of this century."

28 I would say a very wise man making a very wise
29 statement. Mr. Justice McRuer also said that:

30 "Order, like law, to be respected



1 must deserve respect."

2 This to me makes a great deal of sense.

3 Now, we have a situation in the
4 General Electric locals, where our people pay a business
5 agent wages in order that he would carry out our affairs.
6 In one instance Mr. William Woodbeck from the
7 Peterborough local was carrying out our business by
8 working with the Tilco strikers in Peterborough. As
9 a result of carrying on what I consider lawful union
10 work, for which he was elected by democratic procedure,
11 Mr. Woodbeck was placed in jail. The result, then,
12 is that all these fine words about people having the
13 right to join a trade union and participate in its
14 lawful activities, I would submit, sir, become a bit
15 difficult. I think it was Charles Dickens who put
16 words in the mouth of Bumble who said that the law is
17 an ass, that the law becomes a thing to laugh at.

18 THE COMMISSIONER: I would not say
19 to laugh at. I would say to grieve about. That is
20 quite true. Do you think you could devise a means of
21 human creation that would avoid some imperfections of
22 that sort?

23 MR. REPKA: That is our problem and
24 I think that is why Brother Russell made his submission.

25 THE COMMISSIONER: May I interrupt
26 you: You have made a statement there, that somebody
27 carrying out a mission of some sort in accordance with
28 what you think was the law has been put in jail. Are
29 you familiar with the actualities of that situation?
30 Were you present?



1
2 MR. REPKA: No.

3 THE COMMISSIONER: You know nothing
4 at all about the facts personally?

5 MR. REPKA: I believe I know quite
6 a bit about it, sir.

7 THE COMMISSIONER: I am not concerned
8 with your belief. I am concerned with your perception.
9 Did you perceive any of these acts yourself?

10 MR. REPKA: Would my personal knowledge
11 of Mr. Woodbeck mean anything?

12 THE COMMISSIONER: I don't care about
13 that. Did you see any of these things?

14 MR. REPKA: Should I believe a paper
15 when I read it?

16 THE COMMISSIONER: No, not a bit.
17 I am not asking for that.

18 MR. REPKA: Should I believe a court
19 of law? The court of law says that William Woodbeck
20 walking on a Tilco picket line was guilty of an
21 illegal act and therefore was placed in jail. This
22 was a court of law. I should believe them and I would
23 say that when a court of law makes that kind of a
24 decision about Bill Woodbeck, who is carrying out my
25 suggestions, the law is violating the very basis of
26 its activity.

27 THE COMMISSIONER: With the greatest
28 respect to you, Mr. Repka, I think that is due to your
29 deficiency in understanding what the judge really meant.

30 MR. REPKA: Quite possible.

THE COMMISSIONER: And what the facts



1 were underlying what he said. It may be that he had
2 a wrong interpretation of the facts, but his inter-
3 pretation of the facts was not the one that you give
4 to those facts.

5 MR. REPKA: Very good, sir.

6 THE COMMISSIONER: I always hesitate,
7 you know, to pass a judgment, particularly a critical
8 judgment, about a situation with which I am not
9 familiar and the ground rules for which I am
10 ignorant of.

11 MR. REPKA: I feel when people feel
12 there is an injustice in the land at some point they
13 can demonstrate against tht injustice even if it means
14 they have to go to jail for it.

15 THE COMMISSIONER: Yes, that is true.

16 MR. REPKA: I believe that too and
17 I respect Bill Woodbeck and all those men who were
18 placed in jail.

19 THE COMMISSIONER: But I won't
20 accept your statement and the conclusion that you form
21 without further understanding the facts underlying
22 that expression of the court, because I know the
23 members of our courts are not perfect. Unless the
24 General Electric has monopolized the perfections, I am
25 sure we all have weaknesses and, as somebody said,
26 we are all different and our judgment undoubtedly may
27 be deficient in some cases. But I will not accept
28 any suggestion that there is any moral delinquency in
29 pronouncing that. If you were in the seat of justice,
30 how would you like to have it said that you punished a



1 man for doing a legal act?

2 MR. REPKA: I don't think it is
3 a personal matter, sir. Can we agree on this, sir, that
4 men were placed in jail because they violated
5 injunctions?

6 THE COMMISSIONER: Yes, of course they
7 did because it was an order of the court.

8 MR. REPKA: Well, then, in my
9 opinion this was an injustice and this is what I am
10 speaking about.

11 THE COMMISSIONER: You are perfectly
12 entitled to label it injustice because you are not
13 familiar either with the nature of an order like that,
14 the situation which it is intended to meet, or the
15 purpose of it. The purpose of it is order and the
16 respect of the courts, and if you think you can have
17 a democratic society that would be worth living in in
18 the absence of respect for your courts, then you don't
19 know much about social organization.

20 MR. REPKA: Well, sir, the reason
21 why this had to do with workers who work in Canadian
22 General Electric is that right now we have had to go
23 through various hoops in the Labour Relations Act which
24 says you have to go through various stages in
25 negotiations and we are now in a position where we
26 have a strike vote and where we are in a position to
27 strike if we cannot get a contract. The reason why
28 this injunction law becomes a matter that we are
29 interested in is because any one of us then, by legally
30 being on strike, having abided by all the rules, by



1 carrying out all the things that these men in high
2 places say you must do before you are legally on
3 strike, from the way these injunctions work I find
4 that you might go on strike tomorrow and have an
5 injunction against you the following day and you are
6 illegal again.

7 THE COMMISSIONER: It depends
8 entirely upon the conduct in which you carry yourself
9 during the picket line.

10 MR. REPKA: However, the possibility
11 you could have an injunction against the strike
12 immediately is there.

13 THE COMMISSIONER: Not immediately, no.

14 MR. REPKA: Well, in a day, in hours.

15 THE COMMISSIONER: Oh, yes, in a day,
16 because your actions may take place within a very
17 small fraction of a day.

18 MR. REPKA: And as a result of doing
19 something that is completely theoretically legal ----

20 MR. POLLOCK: What does "theoretically
21 legal" mean?

22 MR. REPKA: The theory, as I understand
23 it, as laid out by law, every person is free to join
24 a union of his own choice and to participate in its
25 lawful activities.

26 MR. POLLOCK: "Lawful" activities.

27 MR. REPKA: The Ontario Labour
28 Relations Act says if we go through various procedures,
29 at a certain point we are legally, lawfully on strike.

30 MR. POLLOCK: And there has not been



1 one injunction granted in this province for the last
2 twelve years that has said that you cannot strike.

3 .MR. REPKA: But the minute you are
4 on strike, a few hours after ---

5 MR. POLLOCK: Never mind, just answer
6 me that. Isn't that right? There has never been an
7 injunction granted that says you can't strike. There
8 were injunctions in 1930, granted, and my friend Mr.
9 Russell will point to those where there were orders
10 saying, "You shall not strike".

11 MR. RUSSELL: In British Columbia
12 recently.

13 MR. POLLOCK: I think in Manitoba
14 there was something like that, but not in Ontario.
15 If you want to participate in a strike it is a question
16 of what conduct you can use to further that end. You
17 can be on strike lawfully and you can do acts which
18 are not lawful. You can assault people, you can shoot
19 people, you can burn the plant down --- you are not
20 suggesting that those, because they are in pursuance
21 of a lawful strike, are thereby lawful?

22 MR. REPKA: I hadn't heard that any
23 such things happened.

24 MR. POLLOCK: No, I am asking you.
25 I am saying there is certain conduct which is unlawful
26 in any circumstances whether you are on strike or not.

27 MR. REPKA: Was there anyone in Tilco
28 shot at or beaten up, or was there any such activity?

29 MR. POLLOCK: There was violence
30 alleged at Tilco to grant the first injunction.



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1 MR. REPKA: Well, I had not heard
2 about it.

3 MR. POLLOCK: Well, I suggest you go
4 and read about it, Mr. Repka, because there was
5 violence alleged. There were threats --- I don't know
6 whether this in fact occurred; I wasn't there either.

7 MR. REPKA: Yes, I have heard of
8 people waving a finger at a strikebreaker and that is
9 considered violence.

10 MR. POLLOCK: Well, I suppose if you
11 wave it close enough to him it might be.

12 MR. REPKA: The point I would suggest
13 to the Commissioner is that I believe that the issue
14 really is that the kind of rules we have ---what are
15 the rules by which we work? I would submit that the
16 rules as they presently stand, especially with these
17 injunctions, are loaded against the working man. While
18 it might seem to you as if "so what?" ---

19 MR. POLLOCK: I don't think that is
20 fair. I don't think you can say that about us.

21 MR. REPKA: I am sorry, then. But there
22 are those who will say that.

23 THE COMMISSIONER: Just as I was
24 listening to you, I was listening to you and I thought
25 you presented a very good appearance for a person who
26 is complaining about the hardships of life.

27 MR. REPKA: Thank you very much, sir.
28 I think very many fine people complain about the
29 injustices of the world. As I said, the issue is to
30 discuss what kind of rules we should make, and I think



1 many young people that I see coming into the factory,
2 they consider that times are different. They see an
3 affluent society. They read about it in the papers,
4 see it on television, and they are going to get some
5 of that affluence. I think that a smart society is
6 going to recognize the fact that these people have to
7 have some freedom in getting some of those good things
8 of life.

9 THE COMMISSIONER: There has been a
10 remarkable increase of the art of theft. That is one
11 way of getting hold of these things.

12 MR. POLLOCK: And fraud.

13 MR. REPKA: I would say that most
14 young people in shops work very hard for what they get,
15 deserve all they get, and are perfectly justified in
16 asking for more, especially when some of these
17 corporations show financial statements and profits that
18 are positively fabulous. Then the working people are
19 perfectly justified in saying, "We want some of that
20 cash in order that we also can raise the living standard
21 of society". I think, therefore, we would appreciate
22 if you can find a way of taking some of those screws
23 off the rules that have held working people down and
24 make it a little bit easier for a working man in 1967 to
25 get some of the things that, in my opinion, he deserves
26 and should have.

27 THE COMMISSIONER: Thank you.

28 MR. FARRELL: May I ask Mr. Pollock a
29 question? You remember reading this statement that
30 there was violence on the picket line. I imagine you



1 have read a lot about this.

2 MR. POLLOCK: I have seen a lot of
3 it too.

4 MR. FARRELL: That is part of the
5 question. You have seen a lot.

6 MR. POLLOCK: I have seen at least
7 four or five situations.

8 MR. FARRELL: Personally?

9 MR. POLLOCK: Yes.

10 MR. FARRELL: I believe it. Maybe
11 I have seen some of it myself. Now, here is the other
12 part of the question: Have you ever read about or
13 heard about allegations to this effect that were
14 completely fabricated?

15 MR. POLLOCK: I don't know what you
16 mean by "completely fabricated". I can tell you that
17 both Mr. Russell and I can see the same thing and
18 describe it in different terms. I think in some
19 cases it is a question of exaggerated use of adjectives.
20 I think that there are some cases ----

21 MR. FARRELL: No, I mean things that
22 are alleged to be done by the working force against
23 the company. Do you believe that there has been any
24 fabrication at all in any of the statements against
25 the working force?

26 MR. POLLOCK: Well, I don't have any
27 actual facts that I can say that this was false or that
28 was false. I would think, knowing human nature
29 generally, I think there are as many liars on the side
30



1 of the employers as there are on the side of the union.

2 MR. RUSSELL: May I conclude, sir,
3 by simply saying that we appreciate the opportunity of
4 appearing before you. I can say without any doubt that
5 the members of our union are anxiously looking forward
6 to the results that this Commission will bring forth
7 for the consideration of our government.

8 We have summarized at the end of our
9 brief, I will not repeat it, the main features that
10 we are interested in and we think that some of these
11 proposals will be found, we are hopeful that they will
12 be found when we come to read the document which this
13 Commissioner produces.

14 THE COMMISSIONER: Well, Mr. Russell,
15 we are very much obliged to you and your associates
16 for the frank exchange of the ideas which have passed
17 between us. I think that is the only way in which we
18 can get at the underlying facts, by removing all the
19 hiding and concealment.

20 MR. POLLOCK: Mr. Russell, just so
21 that we can understand the terms of the agreement that
22 we have negotiated I wonder if you are and can go
23 through these 53 strikes that have been involved as much
24 as your recollection will assist.

25 MR. RUSSELL: Mr. Ferguson who is in
26 our research department --- you are really talking to
27 him while you are addressing me --- has notes of it
28 and as soon as it is possible for him, I can't say
29 tomorrow ---

30 MR. POLLOCK: No, and perhaps we might



1 be able to discuss them again and in particular I am
2 interested in the Amalgamated Electric dispute for
3 other reasons, as you know.

4 MR. RUSSELL: Of course, we go into
5 that in some detail.

6 MR. POLLOCK: But what I am saying is
7 perhaps we can defer that discussion until we get the
8 additional material from Mr. Ferguson.

9 MR. RUSSELL: We would be very pleased
10 to have that opportunity.

11 MR. SWACK: I would like to express
12 here, I think, a sentiment that is felt by many of the
13 members of this group that we didn't have the
14 opportunity of reading the brief out loud.

15 THE COMMISSIONER: Have you submitted
16 a separate brief?

17 MR. SWACK: No, I mean this
18 particular brief which we have here.

19 THE COMMISSIONER: Mr. Russell's?

20 MR. SWACK: He dealt with it, but
21 it was not actually read out.

22 THE COMMISSIONER: We are familiar
23 with it and we have an elaboration of it by Mr.
24 Russell.

25 The Commission is adjourned until
26 ten o'clock tomorrow morning.

27
28
29 ---Adjournment.
30

BINDING SECT, OCT 20 1967

